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OFFICIAL DOCUMENTS

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NEWFOUNDLAND FISHERIES.

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The Secretary of State to the British Ambassador.

No. 336.]

DEPARTMENT OF STATE,

WASHINGTON, *October 19, 1905.*

EXCELLENCY: Mr. Gardner, the Representative in Congress of the Gloucester district, has placed in my hands a number of dispatches received by him from masters of American vessels now on the Newfoundland coast. These dispatches are answers to inquiries sent by him upon my request for the purpose of ascertaining definitely, if possible, what is the precise difficulty there.

These dispatches agree in the statement that vessels of American registry are forbidden to fish on the treaty coast. One captain says that he was informed that he could not fish by the inspector of the revenue protection service of Newfoundland, and several of them that they had been ordered not to take herring by the collector of customs at Bonne Bay, Newfoundland.

It would seem that the Newfoundland officials are making a distinction between two classes of American vessels. We have vessels which are registered and vessels which are licensed to fish and not registered. The license carries a narrow and restricted authority; the registry carries the broadest and most unrestricted authority. The vessel with a license can fish, but cannot trade; the registered vessels can lawfully both fish and trade. The distinction between the two classes in the action of the Newfoundland authorities would seem to have been implied in the dispatch from Senator Lodge which I quoted in my letter of the 12th, and the imputation of the prohibition to the Minister of Marine and Fisheries may, perhaps, have come from the port officers in conversation with the masters of American vessels, giving him as their authority for their prohibitions.

As the buying of herring and bait fish, which until recently has been permitted for a good many years in Newfoundland, is trading, the American fishing fleet have come very generally to take an American registry, instead of confining themselves to the narrower fishing license, and far the greater part of the fleet now in northern waters consists of registered vessels. The prohibition against fishing under an American register substantially bars the fleet from fishing. American vessels have also apparently been in the habit of entering at the Newfoundland custom-houses and applying for a Newfoundland license to buy or take bait, and I gather from all the information I have been able to get that both the American masters and the customs officials have failed to clearly appreciate the different conditions created by the practical withdrawal of all privileges on the part of Newfoundland, and the throwing of the American fishermen back upon the bare rights which belong to them under the Treaty of 1818.

I am confident that we can reach a clear understanding regarding those rights and the essential conditions of their exercise, and that a statement of this understanding to the Newfoundland Government for the guidance of its officials on the one hand, and to our American fisherman for their guidance on the other, will prevent causeless injury and possible disturbances such as have been cause for regret in the past history of the northeastern fisheries.

I will try to state our view upon the matters involved in the situation which now appears to exist upon the treaty coast. We consider that —

1. Any American vessel is entitled to go into the waters of the treaty coast and take fish of any kind.

She derives this right from the treaty (or from the conditions existing prior to the treaty and recognized by it), and not from any permission or authority proceeding from the Government of Newfoundland.

2. An American vessel seeking to exercise the treaty right is not bound to obtain a license from the Government of Newfoundland, and, if she does not purpose to trade as well as fish, she is not bound to enter at any Newfoundland custom-house.

3. The only concern of the Government of Newfoundland with such a vessel is to call for proper evidence that she is an American vessel, and therefore entitled to exercise the treaty right, and to have her refrain from violating any laws of Newfoundland not inconsistent with the treaty.

4. The proper evidence that a vessel is an American vessel and entitled to exercise the treaty right is the production of the ship's papers of the

kind generally recognized in the maritime world as evidence of a vessel's national character.

5. When a vessel has produced papers showing that she is an American vessel, the officials of Newfoundland have no concern with the character or extent of the privileges accorded to such a vessel by the Government of the United States. No question as between a registry and license is a proper subject for their consideration. They are not charged with enforcing any laws or regulations of the United States. As to them, if the vessel is American she has the treaty right, and they are not at liberty to deny it.

6. If any such matter were a proper subject for the consideration of the officials of Newfoundland, the statement of this Department that vessels bearing an American registry are entitled to exercise the treaty right should be taken by such officials as conclusive.

If your Government sees no cause to dissent from these propositions, I am inclined to think a statement of them as agreed upon would resolve the immediate difficulty now existing on the treaty coast.

I have, however, to call your attention to a further subject, which I apprehend may lead to further misunderstanding in the near future if it is not dealt with now. That is, the purposes of the Government of Newfoundland in respect of the treatment of American fishing vessels, as exhibited in a law enacted during the past summer by the legislature of that colony under the title "An Act respecting foreign fishing vessels."

This act appears to be designed for the enforcement of laws previously enacted by Newfoundland which prohibited the sale to foreign fishing vessels of herring, caplin, squid or other bait fishes, lines, seines, or other outfits or supplies for the fishery, or the shipment by a foreign fishing vessel of crews within the jurisdiction of Newfoundland.

The act of last summer respecting foreign fishing vessels provides:

SECTION 1. Any justice of the peace, subcollector, preventive officers, fishery warden, or constable may go on board any foreign fishing vessel being within any port on the coasts of this island or hovering in British waters within three marine miles of any of the coasts, bays, creeks, or harbors in this island and may bring such foreign fishing vessel into port, may search her cargo, and may examine the master upon oath touching the cargo and voyage, and the master or person in command shall answer truly such questions as shall be put to him under a penalty not exceeding five hundred dollars. And if such foreign fishing vessel has on board any herring, caplin, squid or other bait fishes, ice, lines, seines, or other outfits or supplies for the fishery purchased within any port on the coasts of this island or within the distance of three marine miles

from any of the coasts, bays, creeks, or harbors of this island, or if the master of the said vessel shall have engaged or attempted to engage any person to form part of the crew of the said vessel in any port or on any part of the coasts of this island or has entered such waters for any purpose not permitted by treaty or convention for the time being in force, such vessel and the tackle, rigging, apparel, furniture, stores, and cargo thereof shall be forfeited.

SEC. 3. In any prosecution under this act the presence on board any foreign fishing vessel in any port of this island or within British waters aforesaid of any caplin, squid, or other bait fishes, of ice, lines, seines or other outfits or supplies for the fishery shall be *prima facie* evidence of the purchase of the said bait fishes and supplies and outfits within such port or waters.

It seems plain that the provisions above quoted constitute a warrant to the officers named to interfere with and violate the rights of American fishing vessels under the Treaty of 1818.

The first section authorizes any of the officers named to stop an American vessel while fishing upon the treaty coast and compel it to leave the fishing grounds, to prevent it from going to the places where the fish may be, to prevent it from departing with the fish which it may have taken, and to detain it for an indefinite period during a search of the cargo and an examination of the master under oath under a heavy penalty.

It is to be observed that this section does not require that the vessel shall have been charged with any violation of the laws of Newfoundland, or even that she shall have been suspected of having violated the laws of Newfoundland as a condition precedent to compelling it to desist from the exercise of its treaty rights, and virtually seizing it and taking it into port. In the consideration of this provision it is unnecessary to discuss any question as to the extent to which American vessels may be interfered with in the exercise of their treaty rights pursuant to judicial proceedings based upon a charge of violation of law, or even upon reasonable ground to believe that any law has been violated, for the authority for the acts authorized appears to be part of no such proceeding.

When we consider that the minor officials named in the act, invested with this extraordinary and summary power, are presumptively members of the fishing communities in competition with which American fishermen are following their calling, it is plain that in denying the right of the Government of Newfoundland to do what this section provides for we are not merely dealing with a theoretical question, but with the probability of serious injustice.

The third section of the act, above quoted in full, makes the presence

on board of an American vessel of the fish, gear — the implements necessary to the exercise of the treaty right — *prima facie* evidence of a criminal offense against the laws of Newfoundland, and it also makes the presence on board the vessel of the fish which the vessel has a right to take under the treaty *prima facie* evidence of a criminal offense under the laws of Newfoundland. This certainly cannot be justified. It is, in effect, providing that the exercise of the treaty right shall be *prima facie* evidence of a crime.

I need not argue with the Government of Great Britain that the first section of this act purports to authorize the very kind of official conduct which led to the establishment in England of the rule against unreasonable searches and seizures, now firmly imbedded in the jurisprudence of both nations. Nor need I argue that American vessels are of right entitled to have on them in the waters of the treaty coast both fish of every kind and the gear for the taking of fish, and that a law undertaking to make that possession *prima facie* proof of crime deprives them of that presumption of innocence to which all citizens of Great Britain and America are entitled. When the legislature of Newfoundland denies these rights to American fishing vessels, it imposes upon them a heavy penalty for the exercise of their rights under the treaty, and we may reasonably apprehend that this penalty will be so severe in its practical effect as to be an effectual bar to the exercise of the treaty right.

I feel bound to urge that the Government of Great Britain shall advise the Newfoundland Government that the provisions of law which I have quoted are inconsistent with the rights of the United States under the Treaty of 1818 and ought to be repealed, and that, in the meantime, and without any avoidable delay, the Governor in Council shall be requested by a proclamation, which he is authorized to issue under the eighth section of the act respecting foreign fishing vessels, to suspend the operation of the act.

There is still another phase of this subject to which I must ask your attention. I am advised that there is a very strong feeling among the Newfoundland fishermen on the treaty coast against the enforcement of the Newfoundland act prohibiting the sale of bait, and that at a recent mass meeting of fishermen at the "Bay of Islands" resolutions were adopted urging the repeal or suspension of that act, and containing the following clauses:

If our requests are not granted immediately we shall be compelled, in justice to ourselves and families, to seek other ways and means to engage with the Americans.

We would also direct the attention of His Excellency the Governor in Council to what took place in Fortune Bay a few years ago when Capt. Solomon Jacobs seined herring against the wishes of the people, and the result. If a similar occurrence should take place here, who will be responsible?

This resolution indicates the existence of still another source from which, if not controlled, may come most unfortunate results when the American fishermen proceed to the exercise of their treaty rights — that is, the Newfoundland fishermen themselves acting independently of their Government.

You are aware that for a considerable period American fishing vessels, instead of themselves taking herring, caplin, and squid upon the treaty coast, have been in the habit of buying those fish from the Newfoundland fishermen. For many of the Newfoundland fishermen this trade has been a principal means of support. That has been especially so in and about the Bay of Islands. It has been profitable to the local fishermen, and it has been for the Americans a satisfactory substitute for the exercise of their treaty right to catch the fish themselves. It is indeed not unnatural that these fishermen should struggle in every way open to them to prevent the loss of their means of support, and that if they cannot control their own Government so as to secure permission to sell herring and bait, they should seek to prevent the Americans from taking the bait, in the hope that as the result of that prevention their profitable trade may be restored. The resolution which I have quoted referring to the Fortune Bay case is a clear threat of violence to prevent the exercise of the treaty right. If the threat should be carried out it is too much to expect that some, at least, of the American fishermen will not refuse to yield to lawless force which seeks to deprive them of their rights and of their means of livelihood.

We shall do everything in our power to prevent any such collision, and we should indeed deeply deplore it, but the true and effective method of prevention plainly must be the exercise of proper control by the Government of Newfoundland over the fishermen of Newfoundland, and it seems to me that the danger is sufficiently real and imminent to justify me in asking that the Government of Great Britain shall take speedy steps to bring about the exercise of such control.

I have, etc.,

ELIHU ROOT.

*The Secretary of State for Foreign Affairs to the American Ambassador
to Great Britain.*

No. 2993.]

FOREIGN OFFICE, *February 2, 1906.*

YOUR EXCELLENCY: The views of the United States Government with respect to the position of affairs on the coast of Newfoundland, and to the rights of American fishing vessels in those waters under the treaty of October 20, 1818, as set forth in Mr. Root's note to His Majesty's ambassador at Washington of the 19th of October last, and in your excellency's communication of the 23d of that month, have received the serious attention of His Majesty's Government.

I have now the honor to inclose a memorandum dealing seriatim with the six propositions formulated by Mr. Root, and with his observations with regard to some of the provisions of recent Newfoundland legislation for the regulation of the fisheries.

As, owing to the prompt measures adopted and to the conciliatory spirit displayed by both Governments, the fishing season has now closed without any collision between the British and American fishermen, or the development of any such friction as was at one time anticipated, it is unnecessary to deal more particularly with the latter portion of Mr. Root's note, which was devoted to that side of the question.

I have, etc.,

[Signed] EDWARD GREY.

[INCLOSURE.]

Memorandum.

Mr. Root's note to Sir M. Durand of the 19th October, 1905, on the subject of the United States fishery in the waters of Newfoundland under the Convention of the 20th October, 1818, may be divided into three parts.

The first deals with complaints which had reached the United States Government to the effect that vessels of United States registry had been forbidden by the colonial authorities to fish on the treaty coast, the second with the provisions of "the Newfoundland foreign fishing-vessels act, 1905," and the third with the possibility of a lawless and violent interruption of the United States fishery by the inhabitants of the Bay of Islands.

The complaints referred to in the first part of Mr. Root's note were at once brought to the notice of the Government of Newfoundland, and they replied that there had been no attempt to prevent American fishermen

from taking fish. The complaints in question appear to have been based on some misunderstanding, and the subsequent course of the fishery proved that the apprehensions on the part of the United States Government to which they gave rise were, fortunately, not well founded.

His Majesty's Government, however, agree with the United States Government in thinking that inasmuch as the privileges which citizens of the United States have for many years enjoyed of purchasing bait and supplies and engaging men in Newfoundland waters have recently been withdrawn and American fishermen have consequently, in Mr. Root's words, been thrown back upon their rights under the Convention of 1818, it is desirable that a clear understanding should be reached regarding those rights and the essential conditions of their exercise, and they have accordingly given the most careful consideration to the six propositions advanced in Mr. Root's note as embodying the views of the United States Government on the subject.

They regret, however, that they are unable to record their assent to these propositions without some important qualifications.

Proposition 1 states:

Any American vessel is entitled to go into the waters of the treaty coast and take fish of any kind. She derives this right from the treaty (or from the conditions existing prior to the treaty and recognized by it), and not from any permission or authority proceeding from the Government of Newfoundland.

The privilege of fishing conceded by Article I of the Convention of 1818 is conceded, not to American vessels, but to inhabitants of the United States and to American fishermen.

His Majesty's Government are unable to agree to this or any of the subsequent propositions if they are meant to assert any right of American vessels to prosecute the fishery under the Convention of 1818 except when the fishery is carried on by inhabitants of the United States. The convention confers no rights on American vessels as such. It inures for the benefit only of inhabitants of the United States.

Proposition 2 states:

An American vessel seeking to exercise the treaty right is not bound to obtain a license from the Government of Newfoundland, and, if she does not purpose to trade as well as fish, she is not bound to enter at any Newfoundland custom-house.

His Majesty's Government agree that the Government of Newfoundland could not require that American fishermen seeking to exercise the

treaty right should take out a license from the Colonial Government. No license is required for what is a matter of right, and no such license has, His Majesty's Government are informed, been, in fact, required.

With the last part of the proposition it will be more convenient to deal in conjunction with proposition 3.

Proposition 3 states:

The only concern of the Government of Newfoundland with such a vessel is to call for proper evidence that she is an American vessel, and therefore entitled to exercise the treaty right, and to have her refrain from violating any laws of Newfoundland not inconsistent with the treaty.

It has already been pointed out that the Convention of 1818 confers no rights on American vessels as such, and that the exercise of the right of fishing under the convention is subject to the condition that the fishing is carried on by inhabitants of the United States. His Majesty's Government, however, agree that no law of Newfoundland should be enforced on American fishermen which is inconsistent with their rights under the convention.

Mr. Root's note does not give any indication of what laws of the colony would be regarded by the United States Government as inconsistent with the convention if applied to American fishermen. The opinion of His Majesty's Government on this point is as follows:

The American fishery, under Article I of the Convention of 1818, is one carried on within the British jurisdiction and "in common with" British subjects. The two Governments hold different views as to the nature of this article. The British Government consider that the war of 1812 abrogated that part of Article III of the Treaty of Peace of 1783 which continued to inhabitants of the United States "the liberty" (in the words used by Mr. Adams to Earl Bathurst in his note of the 25th September, 1815), "of fishing, and drying, and curing their fish within the exclusive jurisdiction on the North American coasts to which they had been accustomed while themselves forming a part of the British nation," and that consequently Article I of the Convention of 1818 was a new grant to inhabitants of the United States of fishing privileges within the British jurisdiction. The United States Government, on the other hand, contend that the war of 1812 had not the effect attributed to it by the British Government, and that Article I of the Convention of 1818 was not a new grant, but merely a recognition (though limited in extent) of privileges enjoyed by inhabitants of the United States prior, not only to

the war, but to the Treaty of 1783. Whichever of these views be adopted, it is certain that inhabitants of the United States would not now be entitled to fish in British North American waters but for the fact that they were entitled to do so when they were British subjects. American fishermen cannot therefore rightly claim to exercise their right of fishery under the Convention of 1818 on a footing of greater freedom than if they had never ceased to be British subjects. Nor consistently with the terms of the convention can they claim to exercise it on a footing of greater freedom than the British subjects "in common with" whom they exercise it under the convention. In other words, the American fishery under the convention is not a free but a regulated fishery, and, in the opinion of His Majesty's Government, American fishermen are bound to comply with all colonial laws and regulations, including any touching the conduct of the fishery, so long as these are not in their nature unreasonable, and are applicable to all fishermen alike. One of these regulations prohibits fishing on Sundays. His Majesty's Government have received information that several breaches of this regulation were committed by American fishermen during the past fishing season. This regulation has been in force for many years, and looking to the insignificant extent to which American fishermen have exercised their right of fishery on the treaty coast in the past, it can not be regarded as having been made with the object of restricting the enjoyment of that right. Both its reasonableness and its *bona fides* appear to His Majesty's Government to be beyond question, and they trust that the United States Government will take steps to secure its observance in the future.

As regards the treatment of American vessels from which American fishermen exercise the treaty right of fishery, His Majesty's Government are prepared to admit that, although the convention confers no rights on American vessels as such, yet since the American fishery is essentially a ship fishery, no law of Newfoundland should be enforced on American fishing vessels which would unreasonably interfere with the exercise by the American fishermen on board of their rights under the convention. The United States Government, on their part, admit in Mr. Root's note that the Colonial Government are entitled to have an American vessel engaged in the fishery refrain from violating any laws of Newfoundland not inconsistent with the convention, but maintain that if she does not purpose to trade, but only to fish, she is not bound to enter at any Newfoundland custom-house.

Mr. Root's note refers only to the question of entry inwards, but it is presumed that the United States Government entertain the same views on

the question of clearing outwards. At all events, American vessels have not only passed to the fishing grounds in the inner waters of the Bay of Islands without reporting at a colonial custom-house, but have also omitted to clear on returning to the United States. In both respects they have committed breaches of the colonial customs law, which, as regards the obligations to enter and to clear, makes no distinction between fishing and trading vessels.

His Majesty's Government regret not to be able to share the view of the United States Government that the provisions of the colonial law which impose those obligations are inconsistent with the Convention of 1818, if applied to American vessels which do not purpose to trade, but only to fish. They hold that the only ground on which the application of any provisions of the colonial law to American vessels engaged in the fishery can be objected to is that it unreasonably interferes with the exercise of the American right of fishery.

It is admitted that the majority of the American vessels lately engaged in the fishery on the western coast of the colony were registered vessels, as opposed to licensed fishing vessels, and as such were at liberty both to trade and to fish. The production of evidence of United States registration is therefore not sufficient to establish that a vessel, in Mr. Root's words, "does not purpose to trade as well as fish," and something more would seem clearly to be necessary. The United States Government would undoubtedly be entitled to complain if the fishery of inhabitants of the United States were seriously interfered with by a vexatious and arbitrary enforcement of the colonial customs laws, but it must be remembered that in proceeding to the waters in which the winter fishery is conducted American vessels must pass in close proximity to several custom-houses, and that in order to reach or leave the grounds in the arms of the Bay of Islands, on which the fishery has been principally carried on during the past season, they have sailed by no less than three custom-houses on the shores of the bay itself. So that the obligation to report and clear need not in any way have interfered with a vessel's operations. It must also be remembered that a fishery conducted in the midst of practically the only centers of population on the west coast of the colony affords ample opportunities for illicit trade, and consequently calls for careful supervision in the interests of the colonial revenue.

The provisions in question are clearly necessary for the prevention of smuggling, and His Majesty's Government are of opinion that exception cannot be taken to their application to American vessels as an unreasonable interference with the American fishery, and they entertain the strong

hope that the United States Government will, on reconsideration, perceive the correctness of this view and issue instructions accordingly for the future guidance of those in charge of American vessels.

It is, moreover, to the advantage of the American vessels engaged in the winter fishery in the Bay of Islands that they should report at a colonial custom-house. Owing to the extent and peculiar configuration of that bay, and owing to the prevalence of fogs, vessels that enter its inner waters may remain for days without the local officers becoming aware that they are on the coast unless they so report. In such circumstances it is difficult for the Colonial Government to insure to American fishermen that protection against lawless interference for which Mr. Root calls in the concluding part of his note.

His Majesty's Government desire further to invite the attention of the United States Government to the fact that certain United States vessels engaged in the fishery refused to pay light dues. This is the first time, His Majesty's Government are informed, that American vessels have refused to pay these dues, and it is presumed that the refusal is based on the denial by the Colonial Government of the trading privileges allowed in past years. His Majesty's Government, however, cannot admit that such denial entitles American vessels to exemption from light dues in the ports in which they fish. As already stated, American fishing vessels engaged in the fishery under the Convention of 1818 have no treaty status as such, and the only ground on which, in the opinion of His Majesty's Government, the application of any colonial law to such vessels can be objected to is that such application involves an unreasonable interference with the exercise of the treaty rights of the American fishermen on board. The payment of light dues by a vessel on entering a port of the colony clearly involves no such interference. These dues are payable by all vessels of whatever description and nationality other than coasting and fishing vessels owned and registered in the colony (which are on certain conditions exempt either wholly or in part). His Majesty's Government trust that in these circumstances such directions will be issued as will prevent further refusals in the future, and they would point out generally that it is the duty of all foreigners sojourning in the limits of the British jurisdiction to obey that law, and that, if it is considered that the local jurisdiction is being exercised in a manner not consistent with the enjoyment of any treaty rights, the proper course to pursue is not to ignore the law, but to obey it, and to refer the question of any alleged infringement of their treaty rights to be settled diplomatically between their Government and that of His Majesty.

Propositions 4, 5, and 6 state:

Proposition 4. The proper evidence that a vessel is an American vessel, and entitled to exercise the treaty right, is the production of the ship's papers of the kind generally recognized in the maritime world as evidence of a vessel's national character.

Proposition 5. When a vessel has produced papers showing that she is an American vessel, the officials of Newfoundland have no concern with the character or extent of the privileges accorded to such a vessel by the Government of the United States. No question as between a registry and license is a proper subject for their consideration. They are not charged with enforcing any laws or regulations of the United States. As to them, if the vessel is American, she has the treaty right, and they are not at liberty to deny it.

Proposition 6. If any such matter were a proper subject for the consideration of the officials of Newfoundland, the statement of this Department that vessels bearing an American registry are entitled to exercise the treaty right should be taken by such officials as conclusive.

His Majesty's Government are unable to agree to these propositions, except with the reservations as to the status of American vessels under the convention already indicated, and, with reference to proposition 6, they would submit that the assurance to be given by the Department of State of the United States should be that the persons by whom the fishery is to be exercised from the American vessels are inhabitants of the United States.

In point of fact the Colonial Government have informed His Majesty's Government that they do not require an American vessel to produce a United States fishing license. The distinction between United States registration and the possession of a United States fishing license is, however, of some importance, inasmuch as a vessel which, so far as the United States Government are concerned, is at liberty both to trade and to fish naturally calls for a greater measure of supervision by the Colonial Government than a vessel fitted out only for fishing and debarred by the United States Government from trading, and information has been furnished to His Majesty's Government by the Colonial Government which shows that the proceedings of American fishing vessels in Newfoundland waters have in the past been of such a character as to make it impossible, from the point of view of the protection of the colonial revenue, to exempt such vessels from the supervision authorized by the colonial customs law.

His Majesty's Government now turn to that part of Mr. Root's note which deals with "the foreign fishing-vessels act, 1905."

His Majesty's Government would have viewed with the strongest disapproval any disposition on the part of the colonial authorities to administer this act in a manner not consistent with His Majesty's treaty obligations, but they are confident that the United States Government will readily admit that the fears expressed on this head in Mr. Root's note have not been realized.

They desire, however, to point out that, though the act in question was passed to give effect to the decision of the Colonial Government to withdraw from American fishing vessels the privileges which they had been allowed to enjoy for many years previously of purchasing bait and supplies and of engaging crews in the ports of the colony, the provisions objectionable to the United States Government which it embodies are in no sense new. They will be found in "the foreign fishing-vessels act, 1893," of which a copy is inclosed. The present act differs from the earlier act in that it takes away, by omission, from the Colonial Government the power conferred upon them by the earlier act of authorizing the issue of licenses to foreign fishing vessels for the enjoyment of the privileges mentioned. Allowing for this change, the provisions of the two acts are in all essential respects identical. The provisions as to boarding, bringing into port, and searching appear in both acts, and also the provisions as to the possession of bait, outfits, and supplies being *prima facie* evidence of the purchase of the same in the colonial jurisdiction, except that in the earlier act there was a further provision, consequential on the authority which it conferred on the Colonial Government to issue licenses, directing that the failure or refusal to produce a license should be *prima facie* evidence of the purchase of such articles without a license. The position of any American fishing vessel choosing to fish for herself on the treaty coast has consequently been since 1893 the same as it is to-day. His Majesty's Government do not advance these considerations with the object of suggesting that the objections which the United States Government have taken to sections 1 and 3 of the foreign fishing-vessels act are impaired by the fact that these provisions have been on the statute book of the colony since 1893 without protest, and they are ready to assume that no such protest has been lodged merely because the privileges accorded to American vessels in the ports of the colony up to the present have been such as to render it unnecessary for inhabitants of the United States to avail themselves of their right of fishing under the Convention of 1818. The object of His Majesty's Government is simply to remove any impression which may have formed itself in the mind of the United States Government that the

language of the act of 1905 was selected with any special view of prejudicing the exercise of the American treaty right of fishery, and to point out that, on the contrary, it dates back to 1893 — that is, to a time when it was the policy of the Colonial Government to treat American vessels on a favored footing.

A new act was not necessary to give effect to the present policy of the Colonial Government. Effect to it could have been given under the act of 1893 by the mere suspension of the issue of licenses to American vessels, and the only object of the new act, as His Majesty's Government understand the position, was to secure the express and formal approval of the colonial legislature for the carrying out of the policy of the Colonial Government.

Having offered these general remarks, His Majesty's Government desire to point out that, in discussing the general effects of "the foreign fishing-vessels act, 1905," on the American fishery under the Convention of 1818, the United States Government confine themselves to sections 1 and 3 and make no reference to section 7,* which preserves "the rights and privileges granted by treaty to the subjects of any state in amity with His Majesty." In view of this provision, His Majesty's Government are unable to agree with the United States Government in regarding the provisions of sections 1 and 3 as "constituting a warrant to the officers named to interfere with and violate" American rights under the Convention of 1818. On the contrary, they consider section 7 as, in effect, a prohibition of any vexatious interference with the exercise of the treaty rights, whether of American or of French fishermen. As regards section 3, they admit that the possession by inhabitants of the United States of any fish and gear which they may lawfully take or use in the exercise of their rights under the Convention of 1818 can not properly be made *prima facie* evidence of the commission of an offense, and, bearing in mind the provisions of section 7, they can not believe that a court of law would take a different view.

They do not, however, contend that the act is as clear and explicit as, in the circumstances, it is desirable that it should be, and they propose to confer with the Government of Newfoundland with the object of removing any doubts which the act in its present form may suggest as to the power of His Majesty to fulfill his obligations under the Convention of 1818.

On the concluding part of Mr. Root's note it is happily not necessary

* Section 9 of the Act of 1893.

for His Majesty's Government to offer any remarks, since the fishing season has come to an end without any attempt on the part of British fishermen to interfere with the peaceful exercise of the American treaty right of fishery.

Mr. Whitelaw Reid to Sir Edward Grey.

AMERICAN EMBASSY, LONDON, *July 20, 1906.*

Sir,

THE Memorandum sent me on the 2nd of February, 1906, embodying the views of His Majesty's Government on the propositions formulated by the Secretary of State of the United States as to the rights of American fishing vessels on the Newfoundland coast, in his letter to Sir Mortimer Durand of the 19th October, 1905, has had Mr. Root's careful consideration.

He has now addressed me a letter, under date of the 30th June, 1906, giving the reasons which prevent his agreement with several of the views stated in this Memorandum. I am instructed, while communicating to you these reasons, to ask for such action as shall prevent any interference upon any ground by the officers of the Newfoundland Government with American fishermen, when they go to exercise their treaty rights upon the Newfoundland coast during the approaching fishing season.

I beg to inclose herewith a copy of this letter from the Secretary of State of the United States.

I have, etc.,

(Signed)

WHITELAW REID.

[INCLOSURE.]

The Secretary of State to the American Ambassador to Great Britain.

No. 239.]

DEPARTMENT OF STATE,

WASHINGTON, *June 30, 1906.*

SIR: The memorandum inclosed in the note from Sir Edward Grey to you of February 2, 1906, and transmitted by you on the 6th of February, has received careful consideration.

The letter which I had the honor to address to the British ambassador in Washington on the 19th of October last stated with greater detail the complaint in my letter to him of October 12, 1905, to the effect that the

local officers of Newfoundland had attempted to treat American ships as such, without reference to the rights of their American owners and officers, refusing to allow such ships sailing under register to take part in the fishing on the treaty coast, although owned and commanded by Americans, and limiting the exercise of the right to fish to ships having a fishing license.

In my communications, the Government of the United States objected to this treatment of ships as such — that is, as trading vessels or fishing vessels — and laid down a series of propositions regarding the treatment due to American vessels on the treaty coast, based on the view that such treatment should depend, not upon the character of the ship as a registered or licensed vessel, but upon its being American — that is, owned and officered by Americans, and therefore entitled to exercise the rights assured by the Treaty of 1818 to the inhabitants of the United States.

It is a cause of gratification to the Government of the United States that the prohibitions interposed by the local officials of Newfoundland were promptly withdrawn upon the communication of the facts to His Majesty's Government, and that the memorandum now under consideration emphatically condemns the view upon which the action of the local officers was based, even to the extent of refusing assent to the ordinary forms of expression which ascribe to ships the rights and liabilities of owners and masters in respect of them.

It is true that the memorandum itself uses the same form of expression when asserting that American ships have committed breaches of the colonial customs law, and ascribing to them duties, obligations, omissions, and purposes which the memorandum describes. Yet we may agree that ships, strictly speaking, can have no rights or duties, and that whenever the memorandum or the letter upon which it comments speaks of a ship's rights and duties it but uses a convenient and customary form of describing the owner's or master's rights and duties in respect of the ship. As this is conceded to be essentially "a ship fishing," and as neither in 1818 nor since could there be an American ship not owned and officered by Americans, it is probably quite unimportant which form of expression is used.

I find in the memorandum no substantial dissent from the first proposition of my note to Sir Mortimer Durand of October 19, 1905, that any American vessel is entitled to go into the waters of the treaty coast and take fish of any kind, and that she derives this right from the treaty and

not from any authority proceeding from the Government of Newfoundland.

Nor do I find any substantial dissent from the fourth, fifth, and sixth propositions, which relate to the method of establishing the nationality of the vessel entering the treaty waters for the purpose of fishing, unless it be intended, by the comments on those propositions, to assert that the British Government is entitled to claim that when an American goes with his vessel upon the treaty coast for the purpose of fishing, or with his vessel enters the bays or harbors of the coast for the purpose of shelter and of repairing damages therein, or of purchasing wood, or of obtaining water, he is bound to furnish evidence that all the members of his crew are inhabitants of the United States. We can not for a moment admit the existence of any such limitation upon our treaty rights. The liberty assured to us by the treaty plainly includes the right to use all the means customary or appropriate for fishing upon the sea, not only ships and nets and boats, but crews to handle the ships and the nets and the boats. No right to control or limit the means which Americans shall use in fishing can be admitted unless it is provided in the terms of the treaty, and no right to question the nationality of the crews employed is contained in the terms of the treaty. In 1818, and ever since, it has been customary for the owners and masters of fishing vessels to employ crews of various nationalities. During all that period I am not able to discover that any suggestion has ever been made of a right to scrutinize the nationality of the crews employed in the vessels through which the treaty right has been exercised.

The language of the Treaty of 1818 was taken from the third article of the Treaty of 1783. The treaty made at the same time between Great Britain and France, the previous treaty of February 10, 1763, between Great Britain and France, and the Treaty of Utrecht, of April 11, 1713, in like manner, contained a general grant to "the subjects of France" to take fish on the treaty coast. During all that period no suggestion, so far as I can learn, was ever made that Great Britain had a right to inquire into the nationality of the members of the crew employed upon a French vessel.

Nearly two hundred years have passed during which the subjects of the French King and the inhabitants of the United States have exercised fishing rights under these grants made to them in these general terms, and during all that time there has been an almost continuous discussion, in which Great Britain and her colonies have endeavored to restrict the right to the narrowest possible limits, without a suggestion that the crews

of vessels enjoying the right, or whose owners were enjoying the right, might not be employed in the customary way without regard to nationality. I cannot suppose that it is now intended to raise such a question.

I observe with satisfaction that the memorandum assents to that part of my second proposition to the effect that "an American vessel seeking to exercise the treaty right is not bound to obtain a license from the Government of Newfoundland," and that His Majesty's Government agree that "no law of Newfoundland should be enforced on American fishermen which is inconsistent with their rights under the convention."

The views of His Majesty's Government, however, as to what laws of the colony of Newfoundland would be inconsistent with the convention if applied to American fishermen differ radically from the view entertained by the Government of the United States. According to the memorandum, the inhabitants of the United States going in their vessels upon the treaty coast to exercise the treaty right of fishing are bound to enter and clear in the Newfoundland custom-houses, to pay light dues, even the dues from which coasting and fishing vessels owned and registered in the colony are exempt, to refrain altogether from fishing except at the time and in the manner prescribed by the regulations of Newfoundland. The colonial prohibition of fishing on Sundays is mentioned by the memorandum as one of the regulations binding upon the American fishermen. We are told that His Majesty's Government "hold that the only ground on which the application of any provisions of colonial law to American vessels engaged in the fishery can be objected to is that it unreasonably interferes with the American right of fishery."

The Government of the United States fails to find in the treaty any grant of right to the makers of colonial law to interfere at all, whether reasonably or unreasonably, with the exercise of the American rights of fishery, or any right to determine what would be a reasonable interference with the exercise of that American right if there could be any interference. The argument upon which the memorandum claims that the colonial government is entitled to interfere with and limit the exercise of the American right of fishery, in accordance with its own ideas of what is reasonable, is based, first, upon the fact that under the terms of the treaty the right of the inhabitants of the United States to fish upon the treaty coast is possessed by them "in common with the subjects of His Britannic Majesty;" and, second, upon the proposition that "the inhabitants of the United States would not now be entitled to fish in British North American waters but for the fact that they were entitled to do so when they were British subjects," and that "American fishermen

can not, therefore, rightfully claim any other right to exercise the right of fishery under the Treaty of 1818 than if they had never ceased to be British subjects."

Upon neither of these grounds can the inferences of the memorandum be sustained. The qualification that the liberty assured to American fishermen by the Treaty of 1818 they were to have "in common with the subjects of Great Britain" merely negatives an exclusive right. Under the treaties of Utrecht, of 1763 and of 1783, between Great Britain and France, the French had constantly maintained that they enjoyed an exclusive right of fishery on that portion of the coast of Newfoundland between Cape St. John and Cape Raye, passing around by the north of the island. The British, on the other hand, had maintained that British subjects had a right to fish along with the French, so long as they did not interrupt them.

The dissension arising from these conflicting views had been serious and annoying, and the provision that the liberty of the inhabitants of the United States to take fish should be in common with the liberty of the subjects of His Britannic Majesty to take fish was precisely appropriate to exclude the French construction and leave no doubt that the British construction of such a general grant should apply under the new treaty. The words used have no greater or other effect. The provision is that the *liberty* to take fish shall be held in common, not that the *exercise* of that liberty by one people shall be the limit of the exercise of that liberty by the other. It is a matter of no concern to the American fishermen whether the people of Newfoundland choose to exercise their right or not, or to what extent they choose to exercise it. The statutes of Great Britain and its colonies limiting the exercise of the British right are mere voluntary and temporary self-denying ordinances. They may be repealed to-morrow. Whether they are repealed, or whether they stand, the British right remains the same, and the American right remains the same. Neither right can be increased or diminished by the determination of the other nation that it will or will not exercise its right, or that it will exercise its right under any particular limitations of time or manner.

The proposition that "the inhabitants of the United States would not now be entitled to fish in British North American waters but for the fact that they were entitled to do so when they were British subjects" may be accepted as a correct statement of one of the series of facts which led to the making of the Treaty of 1818. Were it not for that fact there would have been no fisheries article in the Treaty of 1783, no controversy between Great Britain and the United States as to whether that article

was terminated by the war of 1812, and no settlement of that controversy by the Treaty of 1818. The memorandum, however, expressly excludes the supposition that the British Government now intends to concede that the present rights of American fishermen upon the treaty coast are a continuance of the right possessed by the inhabitants of the American colonies as British subjects, and declares that this present American right is a new grant by the Treaty of 1818. How, then, can it be maintained that the limitations upon the former right continued although the right did not, and are to be regarded as imposed upon the new grant, although not expressed in the instrument making the grant? On the contrary, the failure to express in the terms of the new treaty the former limitations, if any there had been, must be deemed to evidence an intent not to attach them to the newly created right.

Nor would the acceptance by Great Britain of the American view that the Treaty of 1783 was in the nature of a partition of empire, that the fishing rights formerly enjoyed by the people of the colonies and described in the instrument of partition continued notwithstanding the war of 1812, and were in part declared and in part abandoned by the Treaty of 1818, lead to any different conclusions. It may be that under this view the rights thus allotted to the colonies in 1783 were subject to such regulations as Great Britain had already imposed upon their exercise before the partition, but the partition itself and the recognition of the independence of the colonies in the treaty of partition was a plain abandonment by Great Britain of the authority to further regulate the rights of the citizens of the new and independent nation.

The memorandum says: "The American fishermen can not rightly claim to exercise their right of fishery under the Convention of 1818 on a footing different than if they had never ceased to be British subjects." What, then, was the meaning of independence? What was it that continued the power of the British Crown over this particular right of Americans formerly exercised by them as British subjects, although the power of the British Crown over all other rights formerly exercised by them as British subjects was ended? No answer to this question is suggested by the memorandum.

In previous correspondence regarding the construction of the Treaty of 1818, the Government of Great Britain has asserted, and the memorandum under consideration perhaps implies, a claim of right to regulate the action of American fishermen in the treaty waters, upon the ground that those waters are within the territorial jurisdiction of the colony of Newfoundland. This Government is constrained to repeat emphatically its

dissent from any such view. The Treaty of 1818 either declared or granted a perpetual right to the inhabitants of the United States which is beyond the sovereign power of England to destroy or change. It is conceded that this right is, and forever must be, superior to any inconsistent exercise of sovereignty within that territory. The existence of this right is a qualification of British sovereignty within that territory. The limits of the right are not to be tested by referring to the general jurisdictional powers of Great Britain in that territory, but the limits of those powers are to be tested by reference to the right as defined in the instrument creating or declaring it. The Earl of Derby, in a letter to the governor of Newfoundland dated June 12, 1884, said: "The peculiar fisheries rights granted by treaties to the French in Newfoundland invest those waters during the months of the year when fishing is carried on in them, both by English and French fishermen, with a character somewhat analogous to that of a common sea for the purpose of fishery." And the same observation is applicable to the situation created by the existence of American fishing rights under the Treaty of 1818. An appeal to the general jurisdiction of Great Britain over the territory is, therefore, a complete begging of the question, which always must be, not whether the jurisdiction of the colony authorizes a law limiting the exercise of the treaty right, but whether the terms of the grant authorize it.

The distinguished writer just quoted observes in the same letter:

The Government of France each year during the fishing season employs ships of war to superintend the fishery exercised by their countrymen, and, in consequence of the divergent views entertained by the two Governments respectively as to the interpretation to be placed upon the treaties, questions of jurisdiction which might at any moment have become serious have repeatedly arisen.

The practice thus described, and which continued certainly until as late as the modification of the French fishing rights in the year 1904, might well have been followed by the United States, and probably would have been were it not that the desire to avoid such questions of jurisdiction as were frequently arising between the French and the English has made this Government unwilling to have recourse to such a practice so long as the rights of its fishermen can be protected in any other way.

The Government of the United States regrets to find that His Majesty's Government has now taken a much more extreme position than that taken in the last active correspondence upon the same question arising under the provisions of the Treaty of Washington. In his letter of April 3, 1880, to the American minister in London, Lord Salisbury said:

In my note to Mr. Welsh, of the 7th of November, 1878, I stated "that British sovereignty, as regards these waters, is limited in its scope by the engagements of the Treaty of Washington, which *can not* be modified or affected by any municipal legislation," and Her Majesty's Government fully admit that United States fishermen have the right of participation on the Newfoundland *inshore fisheries, in common* with British subjects, as specified in Article XVIII of that treaty. But it can not be claimed, consistently with this right of participation in common with the British fishermen, that the United States fishermen have any *other*, and still less that they have any *greater*, rights than the British fishermen had at the date of the treaty.

If, then, at the *date* of the signature of the Treaty of Washington certain restraints were, by the municipal law, imposed upon the *British fishermen*, the United States fishermen were, by the *express terms* of the treaty, equally subjected to those restraints, and the obligation to observe in common with the British the then existing local laws and regulations, which is implied by the words "*in common*," attached to the United States citizens *as soon* as they claim the benefit of the treaty.

Under the view thus forcibly expressed the British Government would be consistent in claiming that all regulations and limitations upon the exercise of the right of fishing upon the Newfoundland coast which were in existence at the time when the Treaty of 1818 was made are now binding upon American fishermen. Further than this His Majesty's Government can not consistently go, and further than this the Government of the United States can not go.

For the claim now asserted that the colony of Newfoundland is entitled at will to regulate the exercise of the American treaty right is equivalent to a claim of power to completely destroy that right. This Government is far from desiring that the Newfoundland fisheries shall go unregulated. It is willing and ready now, as it has always been, to join with the Government of Great Britain in agreeing upon all reasonable and suitable regulations for the due control of the fishermen of both countries in the exercise of their rights, but this Government can not permit the exercise of these rights to be subject to the will of the colony of Newfoundland. The Government of the United States can not recognize the authority of Great Britain or of its colony to determine whether American citizens shall fish on Sunday. The Government of Newfoundland can not be permitted to make entry and clearance at a Newfoundland custom-house and the payment of a tax for the support of Newfoundland light-houses conditions to the exercise of the American right of fishing. If it be shown that these things are reasonable the Government of the United States will agree to them, but it can not submit to have them

imposed upon it without its consent. This position is not a matter of theory. It is of vital and present importance, for the plain object of recent legislation of the colony of Newfoundland has been practically to destroy the value of American rights under the Treaty of 1818. Those rights are exercised in competition with the fishermen and merchants of Newfoundland. The situations of the Newfoundland fishermen residing upon the shore and making the shore their base of operations and of the American fishermen coming long distances with expensive outfits, devoting long periods to the voyage to the fishing grounds and back to the market, obliged to fish rapidly in order to make up for that loss of time, and making ships their base of operations, are so different that it is easy to frame regulations which will offer slight inconvenience to the dwellers on shore and be practically prohibitory to the fishermen from the coasts of Maine and Massachusetts, and if the grant of this competitive right is to be subject to such laws as our competitors choose to make, it is a worthless right. The premier of Newfoundland, in his speech in the Newfoundland parliament, delivered on the 12th of April, 1905, in support of the foreign fishing bill, made the following declaration:

This bill is framed specially to prevent the American fishermen from coming into the bays, harbors, and creeks of the coast of Newfoundland for the purpose of obtaining herring, caplin, and squid for fishery purposes.

And this further declaration:

This communication is important evidence as to the value of the position we occupy as mistress of the northern seas so far as the fisheries are concerned. Herein was evidence that it is within the power of the legislature of this colony to make or mar our competitors to the North Atlantic fisheries. Here was evidence that by refusing or restricting the necessary bait supply we can bring our foreign competitors to realize their dependency upon us. One of the objects of this legislation is to bring the fishing interests of Gloucester and New England to a realization of their dependence upon the bait supplies of this colony. No measure could have been devised having more clearly for its object the conserving, safeguarding, and protecting of the interest of those concerned in the fisheries of the colony.

It will be observed that there is here the very frankest possible disavowal of any intention to so regulate the fisheries as to be fair to the American fishermen. The purpose is, under cover of the exercise of the power of regulation, to exclude the American fishermen. The Government of the United States surely can not be expected to see with complacency the rights of its citizens subjected to this kind of regulation.

The Government of the United States finds assurance of the desire of His Majesty's Government to give reasonable and friendly treatment to American fishing rights on the Newfoundland coast in the statement of the memorandum that the Newfoundland foreign fishing vessels act is not as clear and explicit as, in the circumstances, it is desirable that it should be, and in the expressed purpose of His Majesty's Government to confer with the Government of Newfoundland with the object of removing any doubts which the act in its present form may suggest as to the power of His Majesty to fulfill his obligation under the Convention of 1818. It is hoped that upon this conference His Majesty's Government will have come to the conclusion, not merely that the seventh section of the act, which seeks to preserve "the rights and privileges granted by treaty to the subjects of any State in amity with His Majesty," amounts to a prohibition of any "vexatious interference" with the exercise of the treaty rights of American fishermen, but that this clause ought to receive the effect of entirely excluding American vessels from the operation of the first and third clauses of the act relating to searches and seizures and *prima facie* evidence. Such a construction by His Majesty's Government would wholly meet the difficulty pointed out in my letter of October 19, as arising under the first and third sections of the act. A mere limitation, however, to interference which is not "vexatious," leaving the question as to what is "vexatious interference" to be determined by the local officers of Newfoundland, would be very far from meeting the difficulty.

You will inform His Majesty's Government of these views and ask for such action as shall prevent any interference upon any ground by the officers of the Newfoundland Government with American fishermen when they go to exercise their treaty rights upon the Newfoundland coast during the approaching fishing season.

I am, etc.,

ELIHU ROOT.

The Earl of Elgin to Governor Sir W. MacGregor.

Sir,

DOWNING STREET, August 6, 1906.

I HAVE the honour to forward, to be laid before your Ministers, copy of a note from the United States' Ambassador at this Court, inclosing copy of a letter from Mr. Root which sets out the views of the United States' Government as to the conditions on which the rights of American fishermen under the Convention of 1818 are to be exercised.

2. Copies of the Memorandum of His Majesty's Government which Mr. Root's letter discusses were forwarded to you on the 15th February last.

3. Mr. Root's letter is engaging the careful attention of His Majesty's Government. I will communicate with you again as soon as I am in a position to state the decision to which they have come in the matter.

I have, &c.

(Signed) ELGIN.

The Earl of Elgin to Governor Sir W. MacGregor.

(Telegraphic.)

DOWNING STREET, August 8, 1906.

COPIES went to you by last mail of communication from United States' Government in which they contend that Convention of 1818 justifies no interference, reasonable or unreasonable, with exercise of American rights of fishery, and request His Majesty's Government to prevent any interference upon any ground by officers of Newfoundland Government with American fishermen when they go to exercise their Treaty rights upon the coast of Newfoundland during approaching fishing season. They disclaim desire that Newfoundland fisheries shall go unregulated, and express their readiness to join with His Majesty's Government in agreeing upon all reasonable and suitable regulations for due control of fishermen of both countries in exercise of their rights, but state that they cannot permit exercise of these rights to be subject to will of Newfoundland. Pending such an agreement, the furthest they are prepared to go is to accept such limitations as were in existence at time Convention of 1818 was concluded, and in support of this position appeal to Lord Salisbury's note to United States' Minister of the 3rd April, 1880, in connection with disturbances at Fortune Bay. Light dues were presumably not levied in 1818, seines were apparently in use, the prohibition of Sunday fishing had been abolished in 1776 (see 15 George III, cap. 31), and fishing-ships were exempted from entry at Custom-house, and required only to make a report on first arrival and on clearing (see same Act). United States' vessels could, on the basis of the *status quo* in 1818, only be asked to make report at custom-house on arrival and on clearing.

It is clear that with such a wide divergence of view between the two Governments no immediate settlement of questions involved is possible, and His Majesty's Government are of opinion that any attempt on part

of your Government to apply to American fishermen the Regulations to which exception is taken by the United States' Government while the discussion of the questions is proceeding between the two Governments might give rise to a highly undesirable and even dangerous situation, and that it is therefore essential that some Provisional Arrangement should be made to secure the peaceable conduct of the coming fishery. His Majesty's Government are therefore informing United States' Government that they are prepared, pending the further discussion of questions at issue and without prejudice to such discussion, to negotiate a Provisional Arrangement which will enable the ensuing fishery to be carried on in good order and friendship, and that they will shortly submit proposals with that object. Please report whether your Ministers have any suggestions to offer as to the nature of that Arrangement. It seems to be certain that if your Ministers press for prohibition both of seines and of Sunday fishing some concessions other than exemption from light dues and Customs law will be expected. Can any such concessions be offered? If not, there is little prospect that both points will be conceded by United States, and as greater possibility of disorder is understood to be attached to Sunday fishing, it would seem better to try and obtain assent of United States to prohibition of this practice in return for use of seines. Have your Ministers any observations as to any fair and reasonable limitations or conditions to be imposed on use of seines if this course is adopted? Telegraph reply immediately.

Modus Vivendi between the United States and Great Britain in regard to Inshore Fisheries on the Treaty Coast of Newfoundland.

AGREEMENT EFFECTED BY EXCHANGE OF NOTES AT LONDON SEPTEMBER 4-6, 1907.

The American Ambassador to the British Foreign Office.

AMERICAN EMBASSY,
London, September 4, 1907.

SIR:—

I am authorized by my Government to ratify a *Modus Vivendi* in regard to the Newfoundland fishery question, as follows:

It is agreed that the fisheries shall be carried on during the present year substantially as they were actually carried on for the most of the time by mutual agreement, under the *Modus Vivendi* of 1906.

(1) It is understood that His Majesty's Government will not bring into force the Newfoundland foreign fishing vessels act of 1906, which imposes on American fishing vessels certain restrictions in addition to those imposed by the act of 1905, and also that the provisions of the first part of Section One of the act of 1905, as to boarding and bringing into port, and also the whole of Section three of the same act, will not be regarded as applying to American fishing vessels.

(2) In consideration of the fact that the shipment of Newfoundlanders by American fishermen outside the three-mile limit is not to be made the basis of interference or to be penalized, my Government waives the use of purse seines by American fishermen during the term governed by this agreement, and also waives the right to fish on Sundays.

(3) It is understood that American fishing vessels will make their shipment of Newfoundlanders, as fishermen, sufficiently far from the exact three-mile limit to avoid reasonable doubt.

(4) It is further understood that American fishermen will pay light dues when not deprived of their rights to fish, and will comply with the provisions of the Colonial customs law as to reporting at a custom house when physically possible to do so.

I need not add that my Government is most anxious that the provisions of this *Modus Vivendi* should be made effective at the earliest possible moment, and that, in view of this, and of the actual presence of our fishing fleet on the treaty shore, we do not feel that an exchange of ratifications should be longer delayed. But my Government has every desire to make the arrangement, pending arbitration, as agreeable as possible to the Newfoundland authorities consistent with the due safeguarding of treaty rights which we have enjoyed for nearly a century. If, therefore, the proposals you have recently shown me from the Premier of Newfoundland or any other changes in the above *Modus Vivendi* should be proposed by mutual agreement between the Newfoundland authorities and our fishermen, having due regard to the losses that might be incurred by a change of plans so long after preparations for the season's fishing had been made and the voyage begun, my Government will be ready to consider such changes with you in the most friendly spirit, and if found not to compromise our rights, to unite with you in ratifying them at once.

I am glad to be assured by you that this note will be considered as sufficient ratification of the *Modus Vivendi* on the part of my Government.

I have the honor to be, with the highest consideration, Sir, Your most obedient humble servant,

WHITELAW REID.

The Right Honorable SIR EDWARD GREY, Baronet,
&c., &c., &c.

The British Foreign Office to the American Ambassador.

FOREIGN OFFICE, September 6th, 1907.

YOUR EXCELLENCY. I have the honour to acknowledge the receipt of Your Excellency's note of the 4th instant, containing the terms of the *Modus Vivendi* with regard to the Newfoundland fisheries, — which you are authorized by your Government to ratify.

I am glad to assure your Excellency that His Majesty's Government agrees to the terms of the *Modus Vivendi* and that your Excellency's note will be considered by His Majesty's Government as a sufficient ratification of that arrangement on the part of His Majesty's Government.

His Majesty's Government fully shares the desire of your Government that the provisions of the *Modus Vivendi* should be made effective at the earliest possible moment, and the necessary steps will be taken by His Majesty's Government to secure its observance.

His Majesty's Government takes note of the conciliatory offer of the United States Government to consider in a most friendly spirit any changes in the *Modus Vivendi*, which may be agreed upon locally between the Newfoundland authorities and the United States fishermen and which may be acceptable both to the United States Government and to His Majesty's Government.

I have the honour to be, with the highest consideration, Your Excellency's most obedient humble servant,

E. GREY.

His Excellency The Honorable WHITELAW REID,
&c., &c., &c.

DOCUMENTS RELATING TO THE INTEGRITY OF CHINA AND THE "OPEN DOOR."

Treaty of Peace between Japan and China.

His Majesty the Emperor of China and His Majesty the Emperor of Japan, desiring to restore the blessings of peace to their countries and subjects and to remove all cause for future complications, have named as their plenipotentiaries for the purpose of concluding a treaty of peace; that is to say, His Majesty the Emperor of China, Li Hung Chang, senior tutor to the heir apparent, senior grand secretary of state, minister superintendent of trade for the northern ports of China, viceroy of the province of Chili, and earl of the first rank, and Li Ching Fong, ex-minister of the diplomatic service, of the second official rank, and His Majesty the Emperor of Japan, Count Ito Hirobumi, Junii, grand cross of the imperial order of Paulownia, minister president of state, and Viscount Mutsu Munemitsu, Junii, first class of the imperial order of the second treasure, minister of state for foreign affairs, who, after having exchanged their full powers, which were found to be in good and proper form, have agreed to the following articles:

ARTICLE I.

China recognizes definitely the full and complete independence and autonomy of Corea, and in consequence the payment of tribute and the performance of ceremonies and formalities by Corea to China, in derogation of such independence and autonomy, shall wholly cease for the future.

ARTICLE II.

China cedes to Japan in perpetuity and full sovereignty the following territories, together with all fortifications thereon:

(a) The southern portion of the province of Feng Tien within the following boundaries:

The line of demarcation begins at the mouth of the River Yalu and ascends that stream to the mouth of the River An-ping; from thence the line runs to Feng Huang; from thence to Haicheng; from thence to Ying Kow, forming a line which describes the southern portion of the territory. The places above named are included in the ceded territory. When the line reaches the River Liao at Feng Kow, it follows the course of that stream to its mouth, where it terminates. The mid-channel of the River Liao shall be taken as the line of demarcation.

This cession also includes all islands appertaining or belonging to the province of Feng Tien, situated in the eastern portion of the Bay of Liao Tung and in the northern part of the Yellow Sea.

(b) The Island of Formosa, together with all the islands appertaining or belonging to said island of Formosa.

(c) The Pescadores Group — that is to say, all islands lying between the 119th and 120th degrees of longitude east of Greenwich and the 23rd and 24th degrees of north latitude.

ARTICLE III.

The alignments of the portions described in the preceding article and shown on the annexed map shall be subject to verification and demarcation on the spot, by a joint commission of delimitation consisting of two or more Chinese and two or more Japanese delegates to be appointed immediately after the exchange of the ratifications of this act. In case the boundaries laid down in this act are found to be defective at any point, either on account of topography or in consideration of good administration, it shall also be the duty of the delimitation commission to rectify the same.

The delimitation commission will enter upon its duties as soon as possible and will bring its labors to a conclusion within the period of one year after appointment.

The alignments laid down in this act shall, however, be maintained until the rectifications of the delimitation commission, if any are made, shall have received the approval of the Governments of China and Japan.

ARTICLE IV.

China agrees to pay to Japan as a war indemnity the sum of 200,000,000 Kuping taels. The said sum is to be paid in eight installments; the first installment of 50,000,000 taels to be paid within six months and the second installment of 50,000,000 taels to be paid within twelve months after the exchange of the ratifications of this act; the remaining sum to be paid in six equal annual installments, as follows:

The first of such equal annual installments to be paid within two years; the second, within three years; the third, within four years; the fourth, within five years; the fifth, within six years, and the sixth, within seven years, after the exchange of the ratifications of this act. Interest at the rate of 5 per centum per annum shall begin to run on all unpaid

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This cession also includes all islands appertaining or belonging to the province of Feng Tien, situated in the eastern portion of the Bay of Liao Tung and in the northern part of the Yellow Sea.

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The delimitation commission will enter upon its duties as soon as possible and will bring its labors to a conclusion within the period of one year after appointment.

The alignments laid down in this act shall, however, be maintained until the rectifications of the delimitation commission, if any are made, shall have received the approval of the Governments of China and Japan.

ARTICLE IV.

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The first of such equal annual installments to be paid within two years; the second, within three years; the third, within four years; the fourth, within five years; the fifth, within six years, and the sixth, within seven years, after the exchange of the ratifications of this act. Interest at the rate of 5 per centum per annum shall begin to run on all unpaid

portions of the said indemnity from the date the first installment falls due.

China shall, however, have the right to pay by anticipation at any time any or all of said installments. In case the whole amount of the said indemnity is paid within three years after the exchange of the ratifications of the present act, all interest shall be waived, and the interest for two years and half or for any less period, if then already paid, shall be included as a part of the principal amount of the indemnity.

ARTICLE V.

The inhabitants of the territory ceded to Japan, who wish to take up their residence outside the ceded districts, shall be at liberty to sell their real property and retire.

For this purpose a period of two years from the date of the exchange of the ratifications of the present act shall be granted. At the expiration of that period those of the inhabitants who shall not have left said territories shall, at the option of Japan, be deemed Japanese subjects.

Each of the two Governments shall immediately upon the exchange of the ratifications of the present act send one or more commissioners to Formosa to effect a final transfer of that province, and within the space of two months after the exchange of the ratifications of this act such transfer shall be completed.

ARTICLE VI.

All treaties between China and Japan having come to an end, in consequence of war, China engages immediately upon the exchange of the ratifications of this act, to appoint plenipotentiaries to conclude with the Japanese plenipotentiaries, a treaty of commerce and navigation and a convention to regulate frontier intercourse and trade.

The treaties, conventions, and regulations now subsisting between China and European powers shall serve as a basis for the said treaty and convention between China and Japan. From the date of the exchange of the ratifications of this act until the said treaty and convention are brought into actual operation, the Japanese Government, its officials, commerce, navigation, frontier intercourse and trade, industries, ships, and subjects, shall, in every respect, be accorded, by China, most-favored-nation treatment.

China makes, in addition, the following concessions, to take effect six months after the date of the present act:

First. The following cities, towns, and ports, in addition to those already opened, shall be opened to the trade, residence, industries, and manufactures of Japanese subjects, under the same conditions and with the same privileges and facilities as exist at the present open cities, towns, and ports of China.

- (1) Shashih, in the province of Hupeh.
- (2) Chungking, in the province of Szechuan.
- (3) Suchow, in the province of Kian Su.
- (4) Hang Chow, in the province of Chekiang.

The Japanese Government shall have the right to station consuls at any or all of the above-named places.

Second. Steam navigation for vessels under the Japanese flag for the conveyance of passengers and cargo shall be extended to the following places:

- (1) On the upper Yangtze River, from Ichang to Chungking.
- (2) On the Woosung River and the canal, from Shanghai to Suchow and Hangchow.

The rules and regulations which now govern the navigation of the inland waters of China by foreign vessels shall, so far as applicable, be enforced in respect of the above-named routes until new rules and regulations are conjointly agreed to.

Third. Japanese subjects purchasing goods or produce in the interior of China or transporting imported merchandise into the interior of China shall have the right temporarily to rent or hire warehouses for the storage of the articles so purchased or transported without the payment of any taxes or exactions whatever.

Fourth. Japanese subjects shall be free to engage in all kinds of manufacturing industries in all the open cities, towns, and ports of China, and shall be at liberty to import into China all kinds of machinery, paying only the stipulated duties thereon.

All articles manufactured by Japanese subjects in China shall, in respect of inland transit and internal taxes, duties, charges, and exactions of all kinds, and also in respect of warehousing and storage facilities in the interior of China, stand upon the same footing and enjoy the same privileges and exemptions as merchandise imported by Japanese subjects into China.

In the event additional rules and regulations are necessary in connection with these concessions, they shall be embodied in the treaty of commerce and navigation provided for by this article.

ARTICLE VII.

Subject to the provisions of the next succeeding article, the evacuation of China by the armies of Japan shall be completely effected within three months after the exchange of the ratifications of the present act.

ARTICLE VIII.

As a guarantee of the faithful performance of the stipulations of this act, China consents to the temporary occupation by the military forces of Japan of Wei-hai-wei in the province of Shantung.

Upon the payment of the first two installments of the war indemnity herein stipulated for and the exchange of the ratifications of the treaty of commerce and navigation the said place shall be evacuated by the Japanese forces, provided the Chinese Government consent to pledge, under suitable and sufficient arrangements, the customs revenue of China as a security for the payment of the principal and interest of the remaining installments of said indemnity.

It is, however, expressly understood, that no such evacuation shall take place until after the exchange of the ratifications of the treaty of commerce and navigation.

ARTICLE IX.

Immediately upon the exchange of the ratifications of this act all prisoners of war then held shall be restored, and China undertakes not to illtreat or punish prisoners of war so restored to her by Japan. China also engages to at once release all Japanese subjects accused of being military spies or charged with any other military offenses. China further engages not to punish in any manner nor to allow to be punished those Chinese subjects who have in any manner been compromised in their relations with the Japanese army during the war.

ARTICLE X.

All offensive military operations shall cease upon the exchange of the ratifications of this act.

ARTICLE XI.

The present act shall be ratified by their majesties the Emperor of China and the Emperor of Japan, and the ratifications shall be exchanged at Chefoo, on the 14th day of the 4th month of the 28th year of Kwang Hsu, corresponding to the 8th day of the 5th month of the 28th year of Meiji.

In witness whereof the respective plenipotentiaries have signed the same and have affixed thereto the seal of their arms.

Done at Shimonoseki, in duplicate, this 23d day of the 3d month of the 21st year of Kwang Hsu, corresponding to the 17th day of the 4th month of the 28th year of Meiji.

LI HUNG CHANG.

[L. S.]

Plenipotentiary of His Majesty the Emperor of China,
Senior Tutor of the Heir Apparent, Senior Grand
Secretary of State, Minister Superintendent of
Trade for the North Ports of China, Viceroy of the
Province of Chili, and Earl of the First Rank.

COUNT ITO HIROBUMI.

[L. S.]

Junii, Grand Cross of the Imperial Order of Paullo-
nia, Minister President of State, Plenipotentiary of
His Majesty the Emperor of Japan.

VISCOUNT MUTSU MUNEMITSU.

[L. S.]

Junii, First Class of the Imperial Order of the Sacred
Treasure, Minister of State for Foreign Affairs,
Plenipotentiary of His Majesty the Emperor of
Japan.

Separate articles.

ARTICLE I.

The Japanese military forces which are, under Article VIII of the treaty of peace signed this day, to temporarily occupy Wei-hai-wei, shall not exceed one brigade, and from the date of the exchange of the ratifications of the said treaty of peace China shall pay annually one-fourth of the amount of the expenses of such temporary occupation, that is to say, at the rate of 500,000 Kuping taels per annum.

ARTICLE II.

The territory temporarily occupied at Wei-hai-wei shall comprise the island of Liu Kung and belt of land 5 Japanese Ri wide along the entire coast line of the Bay of Wei-hai-wei. No Chinese troops shall be permitted to approach or occupy any places within a zone of 5 Japanese Ri wide beyond the boundaries of the occupied territory.

ARTICLE III.

The civil administration of the occupied territory shall remain in the hands of the Chinese authorities. But such authorities shall at all times

be obliged to conform to the orders which the commander of the Japanese army of occupation may deem it necessary to give in the interest of the health, maintenance, safety, distribution, or discipline of the troops.

All military offenses committed within the occupied territory shall be subject to the jurisdiction of the Japanese military authorities.

The foregoing separate articles shall have the same force, value, and effect as if they had been, word for word, inserted in the treaty of peace signed this day.

(Signed as above.)

Convention.

ARTICLE I.

The convention of armistice concluded on the 5th day of the 3rd month of the 21st year of Kwang Hsu, corresponding to the 30th day of the 3d month of the 28th year of Meiji, from this date.

ARTICLE II.

The armistice, which is prolonged by this convention, shall terminate, without notice on either side, at midnight on the 14th day of the 4th month of the 21st year of Kwang Hsu, corresponding to the 8th day of the 5th month of the 28th year of Meiji. The rejection in the meantime, however, of the said treaty of peace, by either high contracting party, shall have the effect of at once terminating this armistice without previous notice.

(Signed as above.)

Convention between Japan and China for the Retrocession by Japan to China of the Southern Portion of the Province of Feng-Tien.

[Signed at Peking, November 8, 1895. Ratifications Exchanged at Peking, November 29, 1895.]

Article I. Japan retrocedes to China in perpetuity and full sovereignty the southern portion of the Province of Feng Tien, which was ceded to Japan under Article II of the Treaty of Shimonoseki of the 17th day of the 4th month of the 28th year of Meiji, corresponding to the 23rd day of the 3d month of the 21st year of Kuang Hsu, together with all fortifications, arsenals and public property thereon at the time the retroceded territory is completely evacuated by the Japanese forces in

accordance with the provisions of Article III of this Convention, that is to say, the southern portion of the Province of Feng Tien from the mouth of the River Yalu to the mouth of the River An-ping, thence to Feng Huang Ch'eng, thence to Haicheng, and thence to Ying-Kow; also all cities and towns to the south of this boundary and all islands appertaining or belonging to the Province of Feng Tien situated in the eastern portion of the Bay of Liao-Tung and in the northern part of the Yellow Sea. Article III of the said Treaty of Shimonoseki is in consequence suppressed, as are also the provisions in the same Treaty with reference to the conclusion of a Convention to regulate frontier intercourse and trade.

II. As compensation for the retrocession of the southern portion of the Province of Feng Tien, the Chinese Government engage to pay to the Japanese Government 30,000,000 Kuping taels on or before the 16th day of the 11th month of the 28th year of Meiji, corresponding to the 30th day of the 9th month of the 21st year of Kuang Hsu.

III. Within three months from the day on which China shall have paid to Japan the compensatory indemnity of 30,000,000 Kuping taels provided for in Article II of this Convention, the retroceded territory shall be completely evacuated by the Japanese forces.

IV. China engages not to punish in any manner nor to allow to be punished those Chinese subjects who have in any manner been compromised in connection with the occupation by the Japanese forces of the retroceded territory.

V. The present Convention is signed in duplicate, in the Japanese, Chinese, and English languages. All these texts have the same meaning and intention, but in case of any differences of interpretation between the Japanese and Chinese texts, such differences shall be decided by reference to the English text.

VI. The present Convention shall be ratified by His Majesty the Emperor of Japan and His Majesty the Emperor of China, and the ratifications thereof shall be exchanged at Peking within twenty-one days from the present date.

In witness whereof the respective Plenipotentiaries have signed the same, and have affixed thereto the seal of their arms.

Done at Peking, this 8th day of the 11th month of the 28th year of Meiji, corresponding to the 22nd day of the 9th month of the 21st year of Kuang Hsu.

[L. s.]

[L. s.]

HAYASHI TADASU.

LI HUNG-CHANG.

Protocol.

In view of the insufficiency of time to effect a formal exchange of the ratifications of the Convention between Japan and China signed this day respecting the retrocession of the Peninsula of Feng Tien, before the date named in the said Convention for certain stipulations thereof to take effect, the Government of His Majesty the Emperor of Japan and the Government of His Majesty the Emperor of China, in order to prevent the possibility of delay in putting into execution the several provisions of the said Convention, have, through their respective Plenipotentiaries, agreed upon the following stipulations:

The Governments of Japan and China shall, within the period of five days after the date of this Protocol, announce to each other through the undersigned, their respective Plenipotentiaries, that the said Convention has received the approval of His Majesty the Emperor of Japan and His Majesty the Emperor of China, respectively, and thereupon the said Convention in all its parts shall come into operation as fully and effectually as if the ratifications thereof had actually been exchanged.

In witness whereof the respective Plenipotentiaries have signed the same, and have affixed thereto the seal of their arms.

Done at Peking, this 8th day of the 11th month of the 28th year of Meiji, corresponding to the 22nd day of the 9th month of the 21st year of Kuang Hsu.

[L. S.]

HAYASHI TADASU.

[L. S.]

LI HUNG-CHANG.

*Circular Note of July 3, 1900, to the Powers Cooperating in China,
defining the purposes and policy of the United States.*

[Circular telegram sent to the United States embassies in Berlin, Paris, London, Rome, and St. Petersburg, and to the United States missions in Vienna, Brussels, Madrid, Tokyo, The Hague, and Lisbon.]

DEPARTMENT OF STATE,

WASHINGTON, July 3, 1900.

In this critical posture of affairs in China it is deemed appropriate to define the attitude of the United States as far as present circumstances permit this to be done. We adhere to the policy initiated by us in 1857, of peace with the Chinese nation, of furtherance of lawful commerce, and of protection of lives and property of our citizens by

all means guaranteed under extraterritorial treaty rights and by the law of nations. If wrong be done to our citizens we propose to hold the responsible authors to the uttermost accountability. We regard the condition at Pekin as one of virtual anarchy, whereby power and responsibility are practically devolved upon the local provincial authorities. So long as they are not in overt collusion with rebellion and use their power to protect foreign life and property we regard them as representing the Chinese people, with whom we seek to remain in peace and friendship. The purpose of the President is, as it has been heretofore, to act concurrently with the other powers, first, in opening up communication with Pekin and rescuing the American officials, missionaries, and other Americans who are in danger; secondly, in affording all possible protection everywhere in China to American life and property; thirdly, in guarding and protecting all legitimate American interests; and fourthly, in aiding to prevent a spread of the disorders to the other provinces of the Empire and a recurrence of such disasters. It is, of course, too early to forecast the means of attaining this last result; but the policy of the Government of the United States is to seek a solution which may bring about permanent safety and peace to China, preserve Chinese territorial and administrative entity, protect all rights guaranteed to friendly powers by treaty and international law, and safeguard for the world the principle of equal and impartial trade with all parts of the Chinese Empire.

You will communicate the purport of this instruction to the minister for foreign affairs.

HAY.

Agreement between Great Britain and Germany defining their mutual policy in China.

[Signed at London, 16th October, 1900.]

Her Britannic Majesty's Government and the Imperial German Government being desirous to maintain their interests in China and their rights under existing Treaties, have agreed to observe the following principles in regard to their mutual policy in China:

1. It is a matter of joint and permanent international interest that the ports on the rivers and littoral of China should remain free and open to trade and to every other legitimate form of economic activity for the

nationals of all countries without distinction; and the two Governments agree on their part to uphold the same for all Chinese territory as far as they can exercise influence.

2. Her Britannic Majesty's Government and the Imperial German Government will not, on their part, make use of the present complication to obtain for themselves any territorial advantages in Chinese dominions, and will direct their policy towards maintaining undiminished the territorial condition of the Chinese Empire.

3. In case of another Power making use of the complications in China in order to obtain under any form whatever such territorial advantages, the two Contracting Parties reserve to themselves to come to a preliminary understanding as to the eventual steps to be taken for the protection of their own interests in China.

4. The two Governments will communicate this Agreement to the other Powers interested, and especially to Austria-Hungary, France, Italy, Japan, Russia, and the United States of America, and will invite them to accept the principles recorded in it.

SALISBURY.

HATZFELDT.

Final Protocol between the Powers and China, signed September 7, 1901.

The plenipotentiaries of Germany, His Excellency M. A. Mumm von Schwarzenstein; of Austria-Hungary, His Excellency M. M. Czikann von Wahlborn; of Belgium, His Excellency M. Joostens; of Spain, M. B. J. de Cologan; of the United States, His Excellency M. W. W. Rockhill; of France, His Excellency M. Paul Beau; of Great Britain, His Excellency Sir Ernest Satow; of Italy, Marquis Salvago Raggi; of Japan, His Excellency M. Jutaro Jomura; of the Netherlands, His Excellency M. F. M. Knobel; of Russia, His Excellency M. M. de Giers; and of China, His Highness Yi-K'uang Prince Ching of the first rank, President of the Ministry of Foreign Affairs, and His Excellency Li Hung-chang, Earl of Su-i of the first rank, Tutor of the Heir Apparent, Grand Secretary of the Wen-hua Throne Hall, Minister of commerce, Superintendent of the northern trade, Governor-General of Chihli, have met for the purpose of declaring that China has complied to the satisfaction of the Powers with the conditions laid down in the note of the 22d of December, 1900, and which were accepted in their entirety by His Majesty the Emperor of China in a decree dated the 27th of December.

ARTICLE 1a.

By an Imperial Edict of the 9th of June last, Tsai Feng, Prince of Ch'un, was appointed Ambassador of His Majesty the Emperor of China, and directed in that capacity to convey to His Majesty the German Emperor the expression of the regrets of His Majesty the Emperor of China and of the Chinese Government for the assassination of His Excellency the late Baron von Ketteler, German minister.

Prince Ch'un left Peking the 12th of July last to carry out the orders which had been given him.

ARTICLE 1b.

The Chinese Government has stated that it will erect on the spot of the assassination of His Excellency the late Baron von Ketteler a commemorative monument, worthy of the rank of the deceased, and bearing an inscription in the Latin, German, and Chinese languages, which shall express the regrets of His Majesty the Emperor of China for the murder committed.

Their Excellencies the Chinese Plenipotentiaries have informed His Excellency the German Plenipotentiary, in a letter dated the 22nd of July last that an arch of the whole width of the street would be erected on the said spot, and that work on it was begun the 25th of June last.

ARTICLE 11a.

Imperial Edicts of the 13th and 21st of February, 1901, inflicted the following punishments on the principal authors of the outrages and crimes committed against the foreign Governments and their nationals:

Tsai-I Prince Tuan and Tsai Lan Duke Fu-kuo were sentenced to be brought before the autumnal court of assize for execution, and it was agreed that if the Emperor saw fit to grant them their lives, they should be exiled to Turkestan and there imprisoned for life, without the possibility of commutation of these punishments.

Tsai Hsun Prince Chuang, Ying Nien, President of the Court of censors, and Chao Shu-Chiao, President of the Board of punishments, were condemned to commit suicide.

Yu Hsien, Governor of Shanhsi, Chi Hsiu, President of the Board of rites, and Hsu Cheng-yu, formerly senior vice-President of the Board of punishments, were condemned to death.

Posthumous degradation was inflicted on Kang Yi, assistant Grand Secretary, President of the Board of works, Hsu Tung, Grand Secretary, and Li Ping-heng, formerly Governor-General of Szu-ch'uan.

An Imperial Edict of February 13th, 1901, rehabilitated the memories of Hsu Yung-yi, President of the Board of war, Li Shan, President of the Board of works, Hsu Ching-cheng, senior vice-President of the Board of works, Lien Yuan, vice-Chancellor of the Grand Council, and Yuan Chang, vice-President of the Court of sacrifices, who had been put to death for having protested against the outrageous breaches of international law of last year.

Prince Chuang committed suicide the 21st of February, 1901, Ying Nien and Chao Shu-chiao the 24th, Yu Hsien was executed the 22nd, Chi Hsiu and Hsu Cheng-yu on the 26th. Tung Fu-hsiang, General in Kan-su, has been deprived of his office by Imperial Edict of the 13th of February, 1901, pending the determination of the final punishment to be inflicted on him.

Imperial Edicts dated the 29th of April and 19th of August, 1901, have inflicted various punishments on the provincial officials convicted of the crimes and outrages of last summer.

ARTICLE IIb.

An Imperial Edict promulgated the 19th of August, 1901, ordered the suspension of official examinations for five years in all cities where foreigners were massacred or submitted to cruel treatment.

ARTICLE III.

So as to make honorable reparation for the assassination of Mr. Sugiyama, chancellor of the Japanese legation, His Majesty the Emperor of China by an Imperial Edict of the 18th of June, 1901, appointed Na Tung, vice-President of the Board of revenue, to be his Envoy Extraordinary, and specially directed him to convey to His Majesty the Emperor of Japan the expression of the regrets of His Majesty the Emperor of China and of his Government at the assassination of the late Mr. Sugiyama.

ARTICLE IV.

The Chinese Government has agreed to erect an expiatory monument in each of the foreign or international cemeteries which were desecrated and in which the tombs were destroyed.

It has been agreed with the Representatives of the Powers that the legations interested shall settle the details for the erection of these monuments, China bearing all the expenses thereof, estimated at ten

thousand taels for the cemeteries at Peking and within its neighborhood, and at five thousand taels for the cemeteries in the provinces. The amounts have been paid and the list of these cemeteries is enclosed herewith.

ARTICLE V.

China has agreed to prohibit the importation into its territory of arms and ammunition, as well as of materials exclusively used for the manufacture of arms and ammunition.

An Imperial Edict has been issued on the 25th of August, 1901, forbidding said importation for a term of two years. New Edicts may be issued subsequently extending this by other successive terms of two years in case of necessity recognized by the Powers.

ARTICLE VI.

By an Imperial Edict dated the 29th of May, 1901, His Majesty the Emperor of China agreed to pay the Powers an indemnity of four hundred and fifty millions of Haikwan taels. This sum represents the total amount of the indemnities for States, companies or societies, private individuals, and Chinese referred to in Article VI of the note of December 22nd, 1900.

(a) These four hundred and fifty millions constitute a gold debt calculated at the rate of the Haikwan tael to the gold currency of each country, as indicated below:

Haikwan tael = marks	3.055
= Austro-Hungary crown	3.595
= gold dollar	0.742
= francs	3.750
= pound sterling	3s. 0d.
= yen	1.407
= Netherlands florin	1.796
= gold rouble (17.424 dolias fine)	1.412

This sum in gold shall bear interest at 4 per cent per annum, and the capital shall be reimbursed by China in thirty-nine years in the manner indicated in the annexed plan of amortization.

Capital and interest shall be payable in gold or at the rates of exchange corresponding to the dates at which the different payments fall due.

The amortization shall commence the 1st of January, 1902, and shall finish at the end of the year 1940. The amortizations are payable annually, the first payment being fixed on the 1st of January, 1903.

Interest shall run from the 1st of July, 1901, but the Chinese Government shall have the right to pay off within a term of three years, beginning January, 1902, the arrears of the first six months, ending the 31st of December, 1901, on condition, however, that it pays compound interest at the rate of 4 per cent per annum on the sums the payments of which shall have thus been deferred. Interest shall be payable semi-annually, the first payment being fixed on the 1st of July, 1902.

(b) The service of the debt shall take place in Shanghai, in the following manner:

Each Power shall be represented by a delegate on a commission of bankers authorized to receive the amount of interest and amortization which shall be paid to it by the Chinese authorities designated for that purpose, to divide it among the interested parties, and to give a receipt for the same.

(c) The Chinese Government shall deliver to the Doyen of the Diplomatic Corps at Peking a bond for the lump sum, which shall subsequently be converted into fractional bonds bearing the signatures of the delegate of the Chinese Government designated for that purpose. This operation and all those relating to issuing of the bonds shall be performed by the above-mentioned Commission, in accordance with the instructions which the Powers shall send their delegates.

(d) The proceeds of the revenues assigned to the payment of the bonds shall be paid monthly to the Commission.

(e) The revenues assigned as security for the bonds are the following:

1. The balance of the revenues of the Imperial maritime Customs after payment of the interest and amortization of preceding loans secured on these revenues, plus the proceeds of the raising to five per cent effective of the present tariff on maritime imports, including articles until now on the free list, but exempting foreign rice, cereals, and flour, gold and silver, bullion and coin.

2. The revenues of the native customs, administered in the open ports by the Imperial maritime Customs.

3. The total revenues of the salt gabelle, exclusive of the fraction previously set aside for other foreign loans.

The raising of the present tariff on imports to five per cent effective is agreed to on the conditions mentioned below.

It shall be put in force two months after the signing of the present

protocol, and no exceptions shall be made except for merchandise shipped not more than ten days after the said signing.

1°. All duties levied on imports "ad valorem" shall be converted as far as possible and as soon as may be into specific duties. This conversion shall be made in the following manner: The average value of merchandise at the time of their landing during the three years 1897, 1898, and 1899, that is to say, the market price less the amount of import duties and incidental expenses, shall be taken as the basis for the valuation of merchandise. Pending the result of the work of conversion, duties shall be levied "ad valorem."

2°. The beds of the rivers Peiho and Whangpu shall be improved with the financial participation of China.

ARTICLE VII.

The Chinese Government has agreed that the quarter occupied by the legations shall be considered as one specially reserved for their use and placed under their exclusive control, in which Chinese shall not have the right to reside and which may be made defensible.

The limits of this quarter have been fixed as follows on the annexed plan:

On the west, the line 1, 2, 3, 4, 5.

On the north, the line 5, 6, 7, 8, 9, 10.

On the east, Ketteler street (10, 11, 12).

Drawn along the exterior base of the Tartar wall and following the line of the bastions, on the south line of 12.1.

In the protocol annexed to the letter of the 16th of January, 1901, China recognized the right of each Power to maintain a permanent guard in the said quarter for the defense of its legation.

ARTICLE VIII.

The Chinese Government has consented to raze the forts of Taku and those which might impede free communication between Peking and the sea; steps have been taken for carrying this out.

ARTICLE IX.

The Chinese Government has conceded the right to the Powers in the protocol annexed to the letter of the 16th of January, 1901, to occupy certain points, to be determined by an agreement between them, for the

maintenance of open communication between the capital and the sea. The points occupied by the powers are:

Huang-tsun, Lang-fang, Yang-tsun, Tientsin, Chun-liang Ch'eng, Tang-ku, Lu-tai, Tang-shan, Lan-chou, Chang-li, Ch'in-wang tao, Shan-hai-kuan.

ARTICLE X.

The Chinese Government has agreed to post and to have published during two years in all district cities the following Imperial Edicts:

(a) Edict of the 1st of February, prohibiting forever, under pain of death, membership in any antforeign society.

(b) Edicts of the 13th and 21st February, 29th April, and 19th August, enumerating the punishments inflicted on the guilty.

(c) Edict of the 19th August, 1901, prohibiting examinations in all cities where foreigners were massacred or subjected to cruel treatment.

(d) Edict of the 1st of February, 1901, declaring all governors-general, governors, and provincial or local officials responsible for order in their respective districts, and that in case of new antforeign troubles or other infractions of the treaties which shall not be immediately repressed and the authors of which shall not have been punished, these officials shall be immediately dismissed, without possibility of being given new functions or new honors.

The posting of these edicts is being carried on throughout the Empire.

ARTICLE XI.

The Chinese Government has agreed to negotiate the amendments deemed necessary by the foreign governments to the treaties of commerce and navigation and the other subjects concerning commercial relations, with the object of facilitating them.

At present, and as a result of the stipulation contained in Article VI concerning the indemnity, the Chinese Government agrees to assist in the improvement of the courses of the rivers Peiho and Whangpu, as stated below.

(a) The works for the improvement of the navigability of the Peiho, begun in 1898 with the cooperation of the Chinese Government, have been resumed under the direction of an international Commission. As soon as the administration of Tientsin shall have been handed back to the Chinese Government, it will be in a position to be represented on this commission, and will pay each year a sum of sixty thousand Haikwan taels for maintaining the works.

(b) A conservancy Board, charged with the management and control of the works for straightening the Whangpu and the improvement of the course of that river, is hereby created.

This Board shall consist of members representing the interests of the Chinese Government and those of foreigners in the shipping trade of Shanghai. The expenses incurred for the works and the general management of the undertaking are estimated at the annual sum of four hundred and sixty thousand Haikwan taels for the first twenty years. This sum shall be supplied in equal portions by the Chinese Government and the foreign interests concerned. Detailed stipulations concerning the composition, duties, and revenues of the conservancy board are embodied in annex No. 17.

ARTICLE XII.

An Imperial Edict of the 24th of July, 1901, reformed the Office of foreign affairs, (Tsungli Yamen), on the lines indicated by the Powers, that is to say, transformed it into a Ministry of foreign affairs (Wai-wu Pu), which takes precedence over the six other Ministries of State. The same edict appointed the principal members of this Ministry.

An agreement has also been reached concerning the modification of Court ceremonial as regards the reception of foreign Representatives and has been the subject of several notes from the Chinese Plenipotentiaries, the substance of which is embodied in a memorandum herewith annexed.

Finally, it is expressly understood that as regards the declarations specified above and the annexed documents originating with the foreign Plenipotentiaries, the French text only is authoritative.

The Chinese Government having thus complied to the satisfaction of the Powers with the conditions laid down in the above-mentioned note of December 22nd, 1900, the Powers have agreed to accede to the wish of China to terminate the situation created by the disorders of the summer of 1900. In consequence thereof the foreign Plenipotentiaries are authorized to declare in the names of their Governments that, with the exception of the legion guards mentioned in Article VII, the international troops will completely evacuate the city of Peking on the 17th September, 1901, and, with the exception of the localities mentioned in Article IX, will withdraw from the province of Chihli on the 22d of September.

The present final Protocol has been drawn up in twelve identic copies and signed by all the Plenipotentiaries of the Contracting Countries.

One copy shall be given to each of the foreign Plenipotentiaries, and one copy shall be given to the Chinese Plenipotentiaries.

Peking, 7th September, 1901.

A. v. MUMM.

M. CZIKANN.

JOOSTENS.

B. J. DE COLOGAN.

W. W. ROCKHILL.

BEAU.

ERNEST SATOW.

SALVAGO RAGGI.

JUTARO KOMURA.

F. M. KNOBEL.

M. DE GIER.

{ Signatures
and
seals
of
Chinese
plenipotentiaries. }

(Annexes omitted from this publication.)

*Convention Entre La Russie et le Japon Signée à St. Pétersbourg le
17/30 Juillet 1907.*

Le Gouvernement de SA MAJESTÉ L'EMPEREUR de toutes les Russies et le Gouvernement de Sa Majesté l'Empereur du Japon, désireux de consolider les rapports de paix et de bon voisinage qui se sont heureusement rétablis entre la Russie et le Japon et voulant écarter pour l'avenir toute cause de malentendus dans les relations des deux empires, sont convenus des dispositions suivantes :

Article. I. Chacune des deux hautes parties contractantes s'engage à respecter l'intégrité territoriale actuelle de l'autre et tous les droits découlant pour l'une et pour l'autre partie, des traités, conventions et contrats en vigueur entre elles et la Chine, copies desquels ont été échangées entre les parties contractantes, — en tant que ces droits ne sont pas incompatibles avec le principe de l'opportunité égale, — du traité signé à Portsmouth le 5 Septembre/23 Aout 1905, ainsi que des conventions spéciales conclues entre la Russie et le Japon.

Article II. Les deux hautes parties contractantes reconnaissent l'indépendance et l'intégrité territoriale de l'empire de Chine et le principe de l'opportunité égale pour ce qui concerne le commerce et l'industrie de toutes nations dans cet empire, et s'engagent à soutenir et à défendre le maintien du statu quo et le respect de ce principe par tous les moyens pacifiques à leur portée.

En foi de quoi les soussignés, dûment autorisés par leur Gouvernements respectifs, ont signé cette convention et y ont apposé leurs sceaux.

Fait à St. Pétersbourg, le 17/30 Juillet 1907.

[TRANSLATION.]

The Government of His Majesty the Emperor of Japan and the Government of His Majesty the Emperor of all the Russias, being desirous to consolidate relations of peace and good neighborhood which have happily been restored between Japan and Russia, and wishing to remove for the future all cause of misunderstanding in the relations of the Two Empires, have agreed upon the following stipulations:

Art. I. Each of the High Contracting Parties engages to respect the actual territorial integrity of the other, and all rights due now both Parties by virtue of treaties, conventions and contracts now in force between them and China, copies of which have been exchanged between the Contracting Parties (so far as those rights are not incompatible with the principle of equal opportunity), as well as by virtue of the Treaty signed at Portsmouth on ^{September 5,}~~August 23,~~ 1905 and the Special Conventions concluded between Japan and Russia.

Art. II. The two High Contracting Parties recognize the independence and territorial integrity of the Empire of China and the principle of equal opportunity for the commerce and industry of all nations in that Empire, and engage to uphold and support the maintenance of status quo and the respect for the said principle by all pacific means at their disposal.

The Undersigned duly authorized by their respective Governments have signed this Convention and have affixed thereto their seals.

Done at St. Petersburg this day ^{July 30}~~July 17,~~ 1907.

(Signed) I. MOTONO.

(Signed) A. IZVOLSKY.

AGREEMENT BETWEEN JAPAN AND COREA, SIGNED AT SEOUL JULY 24, 1907, RELATING TO THE INTERNAL ADMINISTRATION OF COREA.

[TRANSLATION.]

The Government of Japan and the Government of Corea, being animated by the desire to attain speedy development of the strength and resources of Corea and to promote the welfare of her people, have, with that object in view, agreed upon the following stipulations:

ARTICLE I. The Government of Corea shall act under the guidance of the Resident General, in respect to reforms in administration.

ARTICLE II. The Government of Corea engage not to enact any laws, ordinances, regulations, nor to take any important measures of administration without the previous assent of the Resident General.

ARTICLE III. Judicial affairs in Corea shall be set apart from the affairs of ordinary administration.

ARTICLE IV. The appointment and dismissal of all the high officials in Corea shall be made with the concurrence of the Resident General.

ARTICLE V. The Government of Corea shall appoint as Korean officials Japanese subjects recommended by the Resident General.

ARTICLE VI. The Government of Corea shall not engage the services of any foreigner without the concurrence of the Resident General.

ARTICLE VII. Article I of the Protocol, signed between Japan and Corea on August 22nd, 1904, shall hereafter cease to be binding.

In witness whereof, the undersigned duly authorized by their respective Governments, have signed this Agreement and have affixed thereto their seals.

(Signed) Marquis ITO,
Japanese Resident General.

(Signed) YE WAN YONG,
Prime Minister of Corea.

The 24th day of the 7th month of the 40th year of Meiji. (July 24, 1907.)

CONVENTION SIGNED ON AUGUST 31, 1907, BETWEEN GREAT BRITAIN AND RUSSIA, CONTAINING ARRANGEMENTS ON THE SUBJECT OF PERSIA, AFGHANISTAN, AND THIBET.

No. 1.

Sir Edward Grey to Sir A. Nicolson.

Sir,

FOREIGN OFFICE, *August 29, 1907.*

I have to-day authorized your Excellency by telegraph to sign a Convention with the Russian Government containing Arrangements on the subject of Persia, Afghanistan, and Thibet.

The Arrangement respecting Persia is limited to the regions of that country touching the respective frontiers of Great Britain and Russia in Asia, and the Persian Gulf is not part of those regions, and is only

partly in Persian territory. It has not therefore been considered appropriate to introduce into the Convention a positive declaration respecting special interests possessed by Great Britain in the Gulf, the result of British action in those waters for more than a hundred years.

His Majesty's Government have reason to believe that this question will not give rise to difficulties between the two Governments should developments arise which make further discussion affecting British interests in the Gulf necessary. For the Russian Government have in the course of the negotiations leading up to the conclusion of this Arrangement explicitly stated that they do not deny the special interests of Great Britain in the Persian Gulf—a statement of which His Majesty's Government have formally taken note.

In order to make it quite clear that the present Arrangement is not intended to affect the position in the Gulf, and does not imply any change of policy respecting it on the part of Great Britain, His Majesty's Government think it desirable to draw attention to previous declarations of British policy, and to reaffirm generally previous statements as to British interests in the Persian Gulf and the importance of maintaining them.

His Majesty's Government will continue to direct all their efforts to the preservation of the *status quo* in the Gulf and the maintenance of British trade; in doing so, they have no desire to exclude the legitimate trade of any other Power.

I am, &c.
(Signed) E. GREY.

No. 2.

Sir A. Nicolson to Sir Edward Grey.

Sir,

ST. PETERSBURGH, August 31, 1907.

I have the honour to transmit herewith the Convention which was signed to-day by M. Iswolsky and myself for the settlement of certain questions affecting the interests of Great Britain and Russia in Asia.

I also beg leave to forward a note which I received from M. Iswolsky in response to a communication from me, of which a copy is herewith inclosed, on the subject of the entry of scientific missions into Thibet.

I have, &c.
(Signed) A. NICOLSON.

Convention.

His Majesty the King of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas, Emperor of India, and His Majesty the Emperor of All the Russias, animated by the sincere desire to settle by mutual agreement different questions concerning the interests of their States on the Continent of Asia, have determined to conclude Agreements destined to prevent all cause of misunderstanding between Great Britain and Russia in regard to the questions referred to, and have nominated for this purpose their respective Plenipotentiaries, to wit:

His Majesty the King of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas, Emperor of India, the Right Honourable Sir Arthur Nicolson, His Majesty's Ambassador Extraordinary and Plenipotentiary to His Majesty the Emperor of All the Russias;

His Majesty the Emperor of All the Russias, the Master of his Court Alexander Iswolsky, Minister for Foreign Affairs;

Who, having communicated to each other their full powers, found in good and due form, have agreed on the following: —

ARRANGEMENT CONCERNING PERSIA.

The Governments of Great Britain and Russia having mutually engaged to respect the integrity and independence of Persia, and sincerely desiring the preservation of order throughout that country and its peaceful development, as well as the permanent establishment of equal advantages for the trade and industry of all other nations;

Considering that each of them has, for geographical and economic reasons, a special interest in the maintenance of peace and order in certain provinces of Persia adjoining, or in the neighbourhood of, the Russian frontier on the one hand, and the frontiers of Afghanistan and Baluchistan on the other hand; and being desirous of avoiding all cause of conflict between their respective interests in the above-mentioned Provinces of Persia;

Have agreed on the following terms: —

I.

Great Britain engages not to seek for herself, and not to support in favour of British subjects, or in favour of the subjects of third Powers, any Concessions of a political or commercial nature — such as Conces-

sions for railways, banks, telegraphs, roads, transport, insurance, &c. — beyond a line starting from Kasr-i-Shirin, passing through Isfahan, Yezd, Kakhk, and ending at a point on the Persian frontier at the intersection of the Russian and Afghan frontiers, and not to oppose, directly or indirectly, demands for similar Concessions in this region which are supported by the Russian Government. It is understood that the above-mentioned places are included in the region in which Great Britain engages not to seek the Concessions referred to.

II.

Russia, on her part, engages not to seek for herself and not to support, in favour of Russian subjects, or in favour of the subjects of third Powers, any Concessions of a political or commercial nature — such as Concessions for railways, banks, telegraphs, roads, transport, insurance, &c. — beyond a line going from the Afghan frontier by way of Gazik, Birjand, Kerman, and ending at Bunder Abbas, and not to oppose, directly or indirectly, demands for similar Concessions in this region which are supported by the British Government. It is understood that the above-mentioned places are included in the region in which Russia engages not to seek the Concessions referred to.

III.

Russia, on her part, engages not to oppose, without previous arrangement with Great Britain, the grant of any Concessions whatever to British subjects in the regions of Persia situated between the lines mentioned in Articles I and II.

Great Britain undertakes a similar engagement as regards the grant of Concessions to Russian subjects in the same regions of Persia.

All Concessions existing at present in the regions indicated in Articles I and II are maintained.

IV.

It is understood that the revenues of all the Persian customs, with the exception of those of Farsistan and of the Persian Gulf, revenues guaranteeing the amortization and the interest of the loans concluded by the Government of the Shah with the "Banque d'Escompte et des Prets de Perse" up to the date of the signature of the present Arrangement, shall be devoted to the same purpose as in the past.

It is equally understood that the revenues of the Persian customs of Farsistan and of the Persian Gulf, as well as those of the fisheries on the

Persian shore of the Caspian Sea and those of the Posts and Telegraphs, shall be devoted, as in the past, to the service of the loans concluded by the Government of the Shah with the Imperial Bank of Persia up to the date of the signature of the present Arrangement.

V.

In the event of irregularities occurring in the amortization or the payment of the interest of the Persian loans concluded with the "*Banque d'Escompte et des Prets de Perse*" and with the Imperial Bank of Persia up to the date of the signature of the present Arrangement, and in the event of the necessity arising for Russia to establish control over the sources of revenue guaranteeing the regular service of the loans concluded with the first-named bank, and situated in the region mentioned in Article II of the present Arrangement, or for Great Britain to establish control over the sources of revenue guaranteeing the regular service of the loans concluded with the second-named bank, and situated in the region mentioned in Article I of the present Arrangement, the British and Russian Governments undertake to enter beforehand into a friendly exchange of ideas with a view to determine, in agreement with each other, the measures of control in question and to avoid all interference which would not be in conformity with the principles governing the present Arrangement.

CONVENTION CONCERNING AFGHANISTAN.

The High Contracting Parties, in order to ensure perfect security on their respective frontiers in Central Asia and to maintain in these regions a solid and lasting peace, have concluded the following Convention:—

ARTICLE I.

His Britannic Majesty's Government declare that they have no intention of changing the political status of Afghanistan.

His Britannic Majesty's Government further engage to exercise their influence in Afghanistan only in a pacific sense, and they will not themselves take, nor encourage Afghanistan to take, any measures threatening Russia.

The Russian Government, on their part, declare that they recognize Afghanistan as outside the sphere of Russian influence, and they engage that all their political relations with Afghanistan shall be conducted through the intermediary of His Britannic Majesty's Government; they further engage not to send any Agents into Afghanistan.

ARTICLE II.

The Government of His Britannic Majesty having declared in the Treaty signed at Kabul on the 21st March, 1905, that they recognize the Agreement and the engagements concluded with the late Ameer Abdur Rahman, and that they have no intention of interfering in the internal government of Afghan territory, Great Britain engages neither to annex nor to occupy in contravention of that Treaty any portion of Afghanistan or to interfere in the internal administration of the country, provided that the Ameer fulfils the engagements already contracted by him towards His Britannic Majesty's Government under the above-mentioned Treaty.

ARTICLE III.

The Russian and Afghan authorities, specially designated for the purpose on the frontier or in the frontier provinces, may establish direct relations with each other for the settlement of local questions of a non-political character.

ARTICLE IV.

His Britannic Majesty's Government and the Russian Government affirm their adherence to the principle of equality of commercial opportunity in Afghanistan, and they agree that any facilities which may have been, or shall be hereafter obtained for British and British-Indian trade and traders, shall be equally enjoyed by Russian trade and traders. Should the progress of trade establish the necessity for Commercial Agents, the two Governments will agree as to what measures shall be taken, due regard, of course, being had to the Ameer's sovereign rights.

ARTICLE V.

The present Arrangements will only come into force when His Britannic Majesty's Government shall have notified to the Russian Government the consent of the Ameer to the terms stipulated above.

ARRANGEMENT CONCERNING THIBET.

The Governments of Great Britain and Russia recognizing the suzerain rights of China in Thibet, and considering the fact that Great Britain, by reason of her geographical position, has a special interest in the maintenance of the *status quo* in the external relations of Thibet, have made the following Arrangement:—

ARTICLE I.

The two High Contracting Parties engage to respect the territorial integrity of Thibet and to abstain from all interference in its internal administration.

ARTICLE II.

In conformity with the admitted principle of the suzerainty of China over Thibet, Great Britain and Russia engage not to enter into negotiations with Thibet except through the intermediary of the Chinese Government. This engagement does not exclude the direct relations between British Commercial Agents and the Thibetan authorities provided for in Article V of the Convention between Great Britain and Thibet of the 7th September, 1904, and confirmed by the Convention between Great Britain and China of the 27th April, 1906; nor does it modify the engagements entered into by Great Britain and China in Article I of the said Convention of 1906.

It is clearly understood that Buddhists, subjects of Great Britain or of Russia, may enter into direct relations on strictly religious matters with the Dalai Lama and the other representatives of Buddhism in Thibet; the Governments of Great Britain and Russia engage, as far as they are concerned, not to allow those relations to infringe the stipulations of the present Arrangement.

ARTICLE III.

The British and Russian Governments respectively engage not to send Representatives to Lhasa.

ARTICLE IV.

The two High Contracting Parties engage neither to seek nor to obtain, whether for themselves or their subjects, any Concessions for railways, roads, telegraphs, and mines, or other rights in Thibet.

ARTICLE V.

The two Governments agree that no part of the revenues of Thibet, whether in kind or in cash, shall be pledged or assigned to Great Britain or Russia or to any of their subjects.

ANNEX TO THE ARRANGEMENT BETWEEN GREAT BRITAIN AND RUSSIA
CONCERNING THIBET.

Great Britain reaffirms the Declaration, signed by his Excellency the Viceroy and Governor-General of India and appended to the ratification of the Convention of the 7th September, 1904, to the effect that the occupation of the Chumbi Valley by British forces shall cease after the payment of three annual instalments of the indemnity of 25,000,000 rupees, provided that the trade marts mentioned in Article II of that Convention have been effectively opened for three years, and that in the meantime the Thibetan authorities have faithfully complied in all respects with the terms of the said Convention of 1904. It is clearly understood that if the occupation of the Chumbi Valley by the British forces has, for any reason, not been terminated at the time anticipated in the above Declaration, the British and Russian Governments will enter upon a friendly exchange of views on this subject.

The present Convention shall be ratified, and the ratifications exchanged at St. Petersburg as soon as possible.

In witness whereof the respective Plenipotentiaries have signed the present Convention and affixed thereto their seals.

Done in duplicate at St. Petersburg, the 18th (31st) August, 1907.

(L. S.)

A. NICOLSON.

(L. S.)

ISWOLSKY.

Inclosure 2 in No. 2.

Sir A. Nicolson to M. Iswolsky.

M. le Ministre,

ST. PETERSBURGH, *August 18 (31), 1907.*

With reference to the Arrangement regarding Thibet, signed today, I have the honour to make the following Declaration to your Excellency:—

“His Britannic Majesty’s Government think it desirable, so far as they are concerned, not to allow, unless by a previous agreement with the Russian Government, for a period of three years from the date of the present communication, the entry into Thibet of any scientific mission whatever, on condition that a like assurance is given on the part of the Imperial Russian Government.

“His Britannic Majesty’s Government propose, moreover, to approach the Chinese Government with a view to induce them to accept a similar

obligation for a corresponding period; the Russian Government will, as a matter of course, take similar action.

"At the expiration of the term of three years above mentioned His Britannic Majesty's Government will, if necessary, consult with the Russian Government as to the desirability of any ulterior measures with regard to scientific expeditions to Thibet."

I avail, &c.

(Signed)

A. NICOLSON.

Inclosure 3 in No. 2.

M. Iswolsky to Sir A. Nicolson.

M. l'Ambassadeur, ST. PETERSBURGH, August 18 (31), 1907.

In reply to your Excellency's note of even date, I have the honour to declare that the Imperial Russian Government think it desirable, so far as they are concerned, not to allow, unless by a previous agreement with the British Government, for a period of three years from the date of the present communication, the entry into Thibet of any scientific mission whatever.

Like the British Government, the Imperial Government propose to approach the Chinese Government with a view to induce them to accept a similar obligation for a corresponding period.

It is understood that at the expiration of the term of three years the two Governments will, if necessary, consult with each other as to the desirability of any ulterior measures with regard to scientific expeditions to Thibet.

I have, &c.

(Signed)

ISWOLSKY.

PROTOCOL PROVIDING FOR A GENERAL CONFERENCE BETWEEN THE REPUBLICS OF COSTA RICA, EL SALVADOR, GUATEMALA, HONDURAS AND NICARAGUA, SIGNED AT WASHINGTON, SEPTEMBER 17, 1907.

We, the representatives of the five Central American Republics, having met in the city of Washington at the instance of their Excellencies the Presidents of the United States of America and of the United Mexican States in order to devise the means of preserving the good relations among

said Republics and of bringing about permanent peace in those countries, and for the purpose of establishing bases conducive to the attainment of such ends, being duly authorized by our respective governments, have agreed to the following:

ARTICLE I.

Following a formal invitation which, as is understood, is to be made simultaneously to each of the five Central American Republics by Their Excellencies the Presidents of the United States of America and of the United Mexican States, a Conference of the plenipotentiaries to be appointed for the purpose by the governments of the said Republics, viz, Costa Rica, El Salvador, Guatemala, Honduras and Nicaragua, shall meet during the first fifteen days of November next in the City of Washington for the purpose of discussing the steps to be taken and the measures to be adopted in order to adjust any differences which may exist among said Republics or any of them, and for the purpose of concluding a treaty which shall determine their general relations.

ARTICLE II.

Their Excellencies the Presidents of the Central American Republics shall invite Their Excellencies the Presidents of the United States of America and of the United Mexican States to appoint, if they deem proper, their respective representatives to lend their good and impartial offices in a purely friendly way towards the realization of the objects of the Conference.

ARTICLE III.

Until the Conference meets and accomplishes the lofty mission devolving upon it, the five Central American Republics, to-wit, Costa Rica, El Salvador, Guatemala, Honduras and Nicaragua, agree to maintain peace and good relations among one another and they respectively assume the obligation not to commit or allow to be committed any act which might disturb their mutual tranquillity. To this end they shall refrain from an armed demonstration on their respective frontiers and shall withdraw their naval forces to their territorial waters.

ARTICLE IV.

If any unforeseen question should unfortunately arise among any of the said Republics pending the meeting of the Conference, and if it should be impossible to adjust it by the friendly means of diplomacy, it

is mutually agreed that the parties concerned shall submit the difference to the good counsels of His Excellency the President of the United States of America, or of the President of the United Mexican States or of both Presidents jointly, according to circumstances and in conformity with the agreement to be concluded for the purpose.

Signed in Washington, the seventeenth day of the month of September, one thousand nine hundred and seven.

J. B. CALVO,
F. MEJIA,
LUIS TOLEDO HERRARTE,
ANGEL UGARTE,
LUIS F. COREA.

ACT OF DOMINICAN CONGRESS AUTHORIZING EXECUTIVE TO ISSUE AND
SELL \$20,000,000 BONDS.

[From "Gaceta Oficial," September 18, 1907.]

The National Congress.

In the Name of the Republic.

On the Initiative of the Executive Power.

URGENCY DECLARED.

In exercise of the power conferred upon it by Article 23 of the Political Constitution of the State, and to the end that all the provisions of the Convention celebrated between the Republic and the United States of America on February 8, 1907, and approved by this High Body on May 3 of the same year, may be complied with and to provide for the execution, issue and sale of the bonds therein mentioned: and in view of the Decree which declares the loan for which the issue and sale of bonds is provided to be of public utility,

RESOLVES:

Article 1. To authorize the Executive Power to issue and sell, through the Secretary of Finance and Commerce, in such form and denominations, and upon such terms as it may deem best for the interests of the Republic, secured by the Convention above mentioned, and by the import

and export duties collected in the Republic, in accordance with the provisions thereof, bonds of the Republic to a total not exceeding twenty million dollars gold of the United States of America at the present standard of weight and fineness, bearing interest at the rate of five per cent per annum, payable semi-annually, in like gold coin, amortizable in fifty years and redeemable after the expiration of ten years, at one hundred two and one half of their face value, and requiring the payment of at least one per cent per annum for amortization, under such regulations as the said Secretary of Finance and Commerce may prescribe.

Paragraph 1. Both the bonds and the interest thereon shall be exempt from the payment of all taxes or duties now or hereafter established by the Republic.

Paragraph 2. The bonds issued shall conform to the provisions of the Convention of February 8, 1907, approved by this High Body on May 3 of the same year, and shall contain such provisions as the Secretary of Finance may prescribe, and each bond shall bear a certificate in such form and containing such provisions as the said Secretary of Finance and Commerce may prescribe and which shall be executed by him or by the Fiscal Agent, and which shall authenticate such bonds as bonds issued by virtue of the provisions of the said Convention.

Article 2. These bonds or the proceeds thereof shall be applied by the Executive Power to the objects mentioned in the Convention.

Article 3. The Executive Power is also authorized to appoint a Depositary, an Agent and Registrar of transfers and a Fiscal Agent, to act in connection with the issue and sale of the bonds and with the receipt and distribution of the proceeds of the said sale, with the adjustment and settlement of the debts, claims and concessions, and with the service of the loan, in accordance with the provisions of the said Convention.

Paragraph. The same company, bank or firm of private bankers may act as Depositary, Agent and Registrar of transfers, and Fiscal Agent or these duties may be entrusted to different agents as the Executive Power may deem best, which shall prescribe the powers and duties of each, and pay or agree to pay for their services such remuneration as it may deem best, provided that the remuneration of the Depositary shall not exceed one-half of one per cent of the total sum which may be paid to the holders of indebtedness or claims against the Republic, or concessions, who may have accepted the proposed adjustment, or reserved for the payment of debts, claims and concessions of the holders who may not have accepted it, in addition to the expenses incurred by such depositary in acting as such: nor more than \$250 per annum to the Agent and Regis-

trar of transfers, nor more than fifty cents to the Fiscal Agent for each certificate of authenticity that he may issue for each bond, nor more than ten thousand dollars per annum for the incidental expenses incurred by such Fiscal Agent for the service of the loan.

The Executive Power is also authorized to pay from the proceeds of said bonds, the sum necessary to cover the expense of preparing, issuing and disposing of the same.

This Resolution is effective against any other law, decree or resolution that may conflict with it.

Transmit to the Executive Power for constitutional ends.

Done in the Palace of the National Congress the 16th day of September, 1907: 64th year of the Independence and 45th of the Restoration.

The President: RAMON O. LOVATON.

The Secretaries: A. ACEVEDO. C. A. NOUEL.

Let it be executed, communicated by the Corresponding Department, published in all the territory of the Republic that it may be observed.

Done in the National Palace of Santo Domingo, Capital of the Republic, the 17th day of September, 1907: 64th year of the Independence and 45th of the Restoration.

The President of the Republic:

R. CACERES.

Countersigned: The Minister of Finance and Commerce:

FEDCO. VELAZQUEZ H.

BRAZILIAN LAW RESPECTING THE EXPULSION OF FOREIGNERS.

Decree No. 1641 of January 7, 1907.

Regulations concerning the expulsion of foreigners from the national territory.

The President of the Republic of the United States of Brazil:

I make known that the National Congress has decreed and I sanction the following resolution:

Art. 1. The foreigner who, for whatever motive, should compromise the national safety or public tranquillity, may be expelled from a part or the whole of the national territory.

Art. 2. Are also sufficient causes for expulsion: —

1. The condemnation or action by foreign tribunals for crime or offenses of a common nature;

2. Two condemnations, at least, by Brazilian tribunals for crimes or offenses of a common nature;

3. Vagrancy, beggary and pandering when competently proved.

Art. 3. A foreigner can not be expelled when he has resided two years continuously in the territory of the Republic or for a lesser time when he is:

a) married with a Brazilian;

b) a widower with a Brazilian son.

Art. 4. The Executive can impede the entrance to the territory of the Republic to every foreigner whose antecedents authorize him to be included among those to whom arts. 1 and 2 refer.

Sole paragraph. The entry can not be forbidden to a foreigner in the conditions of art. 3, if he should have temporarily retired from the Republic.

Art. 5. The expulsion will be individual and in the form of an act, which will issue from the Ministry of Justice and of the Interior.

Art. 6. The Executive will annually give an account of the execution of the present law to Congress and give it the names of each expelled person, stating his nationality. It will also give an account of the cases in which it refused to accede to the demands of the state authorities and the reasons for the refusal.

Art. 7. The Executive will by an official note inform the foreigner whom it has decided to expel of the reasons for the decision and will concede to him a period of three to thirty days in which to retire. It may also, as a measure of public safety, order his detention until the moment of departure.

Art. 8. Within the period that may be conceded to him, the foreigner may have recourse to the proper authority which ordered his expulsion, if this (expulsion) is founded on the dispositions of art. 1, or to the federal judicial authorities when (the expulsion) results from the dispositions of art. 2. Only in this latter case will the appeal have a suspensive effect.

Sole paragraph. The appeal to the federal judicial authorities will consist in the proof of the falsity of the alleged reason, made before the sectional judge with the presence of the public prosecutor.

Art. 9. The foreigner who should return to the territory whence he has been expelled will be punished with a sentence of from one to three years

imprisonment, in a suit prepared and judged by the sectional judge and after the sentence has been fulfilled he shall be once more expelled.

Art. 10. The Executive may revoke the expulsion, if the causes which determined it have ceased.

Art. 11. The dispositions to the contrary are revoked.

Rio de Janeiro, January 7, 1907, 19th of the Republic.

AFFONSO AUGUSTO MOREIRA PENNA.

AUGUSTO TAVARES DE LYRA.

Instructions for the Execution of Decree No. 1641, of January 7, 1907.

Art. 1. The expulsion of the foreigner, from part or from all the national territory, may take place in the following cases:

I. When the foreigner, for any reason, compromises the national security or the public tranquillity.

II. When he has been condemned or prosecuted by foreign courts for crimes or offences of a public nature, or when he has been twice convicted by Brazilian courts for crimes or offences of the same nature.

III. When he is a tramp, mendicant, or practices acts of pandering. (Decree No. 1641 of January 7, 1907, Art. 1st and 2nd.)

Art. 2. The expulsion provided for in No. 1 of Article 1, may be ordered by the Federal Government upon all occasions in which the individual shows himself, in the exclusive judgment of the Federal Government, prejudicial to the interests of national security or of public order, in any part of the Union.

Art. 3. The condemnation and prosecution by foreign courts is considered proved, sufficient for expulsion, either in view of the data obtained from the governments of the countries to which the individuals in question belong, or in view of certificates thereof, made in due form by proper officers.

The condemnation and prosecution by Brazilian courts will be proved in this second manner, whenever it is established that definite sentences, passed to judgment are treated of.

1st. Vagabondage and beggary will be proved by the warrant for imprisonment in flagrant infractions.

2nd. The proof of pandering must be made clear by authorized police inquiry, either by the existence of documents of acknowledged probatory worth, or the depositions of at least two credible witnesses affirming the truth of the charge.

Art. 4. The expulsion will be individual and will be made by act of the Minister of Justice and Domestic Affairs.

Art. 5. The act of expulsion having been issued, the foreigner will be officially notified, in writing, of the motives that determined the decision of the Government, allowing him from 3 to 30 days to leave the country; if it is found necessary, he may be held until the moment of departure.

Art. 6. In the Federal District the act of the Government will be executed by the Chief of Police, the disposition of the preceding article being observed.

Art. 7. Inside of the time allowed the foreigner to leave the country, he may, the expulsion being based upon Article I, appeal to the Executive Power through a petition addressed to the Minister of Justice, furnishing him with any documents admitted in law substantiating the appeal.

Art. 8. In other cases where expulsion may be ordered, the appeal will be made before a Federal court, and shall always have a suspensive effect.

The last mentioned appeal shall consist in establishing proof of the falsity of the motive of expulsion, before the sectional judge, there being present a representative of the Public Ministry and an appeal lying at the option of both parties to the Supreme Federal Tribunal.

Art. 9. The presidents and governors of the states may make requisition upon the Federal Government for the expulsion of the foreigner within each state, whenever such person falls within any of the conditions provided for by Nos. 1, 2, and 3, of Article 1st of the present instructions.

1st. Requisitions must be accompanied by the data, — copies of the inquiry or any other documents, that may prove not only the identity of the individual whom it is proposed to expel, but his age, nationality, whether married or single, and profession, together with the facts or acts of which he is charged.

2nd. The Federal Government, in accord with the state governments, will take the necessary administrative measures to observe the disposition in Art. 12 of these instructions. In the Federal District it is the duty of the Chief of Police to look to the suitableness of the measures referred to.

Art. 10. The requisitions of the governors of the states having been attended to, the Minister of Justice will give them immediately knowledge of the fact, to the end that they may take steps in harmony with the provision of Article 5.

Art. 11. A foreigner may not be expelled who has resided in the Federal District, or in the states for two consecutive years or for less time if married to a Brazilian woman, or who is a widower with a child by a Brazilian woman. (Art. 3 of decree referred to.)

Art. 12. A foreigner will be denied entrance into Brazilian territory whose conduct in the country from which he came may be classified among any of the cases which justify expulsion. (Art. 4 of decree referred to.)

Art. 13. The Government may revoke the expulsion if the causes determining it have ceased to exist, — or may allow an extension of time to that already fixed for the foreigner to leave the country.

Art. 14. The foreigner who returns to the territory from which he has been expelled will be punished with a penalty of from one to three years imprisonment, in accordance with the existing penitentiary system, in proceedings prepared and tried by the sectional judge, with all legal resources, and after the sentence has been fulfilled he will be again expelled. (Art. 9 of the decree referred to.)

Art. 15. The Minister of Justice in his annual report will inform Congress minutely in reference to the writs issued, attaching a list of the individuals who have been expelled, under direct decision of the Federal Government, or upon requisition from the governors of the states.

Art. 16. In the office of the Director General of Justice, of the Department of State, under which all services are to be executed concerning the execution of the Decree No. 1641 of January 7th of the present year, there shall be kept in a special book the register of the writs of the government issued by virtue of the said decree.

Rio de Janeiro, May 3, 1907: (Signed) AUGUSTO TAVARES DE LYRA.

JAPANESE LAW OF 1899, PLACING RESTRICTIONS ON THE RESIDENCE OF
FOREIGN LABORERS IN THE INTERIOR OF JAPAN.

Law concerning Mixed Residence.

We, by the advice of our Privy Council, hereby give our sanction to matters relating to the residence and occupation, etc., of foreigners who either by virtue of Treaty or of Custom have no freedom of residence and order the same to be promulgated.

(Imperial Seal and Sign Manual.)

July 27th, 1899.

MARQUIS YAMAGATA ARITOMO, Minister President.

MARQUIS SAIGO YORIMICHI, Minister for Home Affairs.

VISCOUNT AOKI SHUZO, Minister for Foreign Affairs.

KIYOURA KEIGO, Minister for Justice.

IMPERIAL ORDINANCE NO. 352.

Art. 1. Foreigners who either by virtue of Treaty or of custom have not freedom of residence may hereafter reside, remove, carry on trade and do other acts outside the former Settlements and Mixed Residential districts. Provided that in the case of laborers they cannot reside or carry on their business outside the former Settlements or Mixed Residential districts unless under the special permission of the administrative authorities.

The classes of such laborers (referred to in the preceding paragraph) and details for the operation of this ordinance shall be determined by the Minister for Home Affairs.

Art. 2. Persons infringing the proviso of clause 1 of the foregoing Article shall be sentenced to a fine not exceeding Y 100.

SUPPLEMENTARY RULES.

Art. 3. This law shall be put into operation on and after August 4th, 1899.

Art. 4. Imperial Ordinance 137* of August 4, 1894, shall be rescinded after the date on which this law comes into force.

HOME OFFICE NOTIFICATION NO. 42.

Details relating to the operation of Imperial Ordinance No. 352, 1899, concerning the residence and occupation of foreigners who have no freedom of residence either by virtue of Treaty, or of custom are decided as follows:—

MARQUIS SAIGO YORIMICHI, Minister for Home Affairs.

Art. 1. The administrative authorities mentioned in Art. 1 of Imperial Ordinance No. 352, 1899, shall be the head of each Prefecture and of Hokkaido.

Art. 2. The laborers mentioned in Art. 1 of the same law shall be men engaged in labor in agricultural, fishing, mining, civil engineering, architectural, manufacturing, transporting, carting, stevedoring, and other miscellaneous work. Provided that this rule is not applicable to those who are employed in household services such as cooking and waiting.

Art. 3. Permission given to laborers (to reside in the interior) may be cancelled by a local Governor when he deems it necessary to do so for the public welfare.

* Refers to conditions upon which Chinese subjects might remain in Japan during Japan-China War.

THE ACRE CONTROVERSY.

Treaty between Brazil and Bolivia terminating the dispute over the Acre Territory, signed November 17, 1903.

The Republic of the United States of Brazil and the Republic of Bolivia, animated by the desire of consolidating forever their traditional friendship, of removing the causes for possible discord, and wishing at the same time to facilitate the development of their commercial and neighborly relations, have agreed to celebrate a treaty for exchange of territories and other compensations in conformity with the stipulations of art. 5 of the treaty of friendship, boundaries, navigation, and commerce of March 27, 1867.

And for this purpose have named plenipotentiaries, to wit:

The President of the Republic of the United States of Brazil: Messrs. José Maria da Silva Paranhos do Rio Branco, minister of foreign affairs, and Joaquim Francisco de Assis Brazil, envoy extraordinary and minister plenipotentiary in the United States of America; and

The President of the Republic of Bolivia: Messrs. Fernando E. Guachalla, envoy extraordinary and minister plenipotentiary on special mission to Brazil and Senator of the Republic, and Claudio Pinilla, envoy extraordinary and minister plenipotentiary in Brazil, nominated minister of foreign affairs of Bolivia;

Who, after an exchange of their full powers, which were found to be in good and due form, have agreed on the following articles:

ARTICLE I.

The boundary between the Republic of the United States of Brazil and the Republic of Bolivia shall be established as follows:

1. Starting from lat. 20° 08' 35" south, opposite the outlet of Bahia Negra into the Paraguay River, it shall ascend this river to a point on the right bank at a distance of 9 kilometers, measured in a straight line, from the port at Coimbra; that is, approximately at lat. 19° 58' 05" and long. 14° 39' 14" west of the observatory at Rio de Janeiro (57° 47' 40" west of Greenwich), in accordance with the map of the boundary drawn by the mixed boundary commission of 1875 and it shall continue from this point on the right bank of the Paraguay by a geodetic line which shall extend to another point four kilometers distant, in the true direction of 27° 01' 22", northeast, from the so-called "boundary monuments at the end of Bahia Negra," the distance of four kilometers being rigorously

measured along the present boundary, so that this point shall be, more or less, at lat. $19^{\circ} 45' 36.6''$ and long. $14^{\circ} 55' 46.7''$ west of Rio de Janeiro ($58^{\circ} 04' 12.7''$ west of Greenwich). From there it shall extend, in the direction marked out by the mixed commission of 1875, to lat. $19^{\circ} 02'$, and thence eastward along this parallel to Arroio de Conceicao, following this to its mouth on the southern bank of the outlet of Lake Caceres, also called Tamengos River. It shall ascend the river to the meridian cutting Tamarindeiro Point, and thence northward along the meridian of Tamarindeiro to lat. $18^{\circ} 54'$, continuing along this parallel to the west until it meets the present boundary.

2. From the point of intersection of parallel $18^{\circ} 54'$ with the straight line forming the present boundary it shall extend, in the same direction as today, to lat. $18^{\circ} 14'$, and eastward along this parallel to where it meets the outlet of Lake Mandioré, along which it shall ascend, crossing the lake in a straight line to a point on the former boundary line equidistant from the two existing boundary monuments, and thence along this former line to the boundary monument of the northern shore.

3. From the northern monument in Lake Mandioré it shall continue in a straight line, in the same direction as today, to lat. $17^{\circ} 49'$, and along this parallel to the meridian of the extreme southeast of Lake Gahiba. It shall follow along that meridian to the lake, and shall cross the latter in a straight line to a point equidistant from the two existing boundary monuments on the old boundary line, and thence along this former or present boundary to the entrance of the Pedro Segundo Canal, also known recently as Pando River.

4. From the southern entrance of the Pedro Segundo Canal, or River Pando, to the confluence of the Beni and Mamoré the boundary shall be the same as that determined upon in art. 2 of the treaty of March 27, 1867.

5. From the confluence of the Beni and Mamoré the boundary shall follow down the Madeira to the mouth of the Abunan, an affluent entering on the left, and shall ascend by the Abunan to lat. $10^{\circ} 20'$. From there it shall extend along parallel $10^{\circ} 20'$ eastward to the Rapirran, and shall ascend the latter to its principal source.

6. From the principal source of the Rapirran it shall extend along the parallel of latitude of the source until it encounters to the west the Inquiry River, ascending along the latter to its origin; whence it shall extend to the "Igarapé Bahia," by the most prominent landmarks or by a straight line, as it shall seem best to the commissioners of the two countries appointed to mark the boundary.

7. From the source of the "Igarapé Bahia" it shall continue down the latter to its confluence on the right bank with the Acre or Aquiry River, which it shall ascend to its source, if the latter is not in longitude farther west than 69° west of Greenwich.

(a) In the case mentioned, that is, if the source of the Acre is in longitude not so far west as that indicated, the boundary shall follow along the meridian of the source to parallel 11°, and thence westward along this parallel to the boundary with Peru.

(b) If the Acre River, as seems certain, crosses longitude 69° west of Greenwich and extends either to the north or south of said parallel 11°, following the latter more or less, the channel of the river shall form the dividing line to its source, along the meridian of which it shall continue to parallel 11°, and thence westward along the same parallel to the boundary with Peru; but if to the west of said longitude 69° the Acre flows entirely south of parallel 11°, the boundary shall extend from that river along longitude 69° to the point of intersection with the said parallel 11°, and thence along it to the boundary with Peru.

ARTICLE II.

The transference of territories resulting from the delimitation described in the preceding article includes all the rights inherent in them and the responsibility flowing from the obligation to maintain and respect the legal rights acquired by citizens and foreigners, according to the principles of the civil law.

The claims arising from administrative acts and events that have taken place in the territories exchanged shall be examined and judged by an arbitration tribunal composed of one representative of Brazil, another of Bolivia, and of one foreign minister accredited to the Brazilian Government. This third arbiter, president of the court, shall be chosen by the two high contracting parties immediately upon the exchange of ratifications of the present treaty. The court shall perform its functions during one year in Rio de Janeiro, and shall commence its labors within the period of six months, counted from the day of the exchange of ratifications. Its mission shall be: 1, to accept or reject the claims; 2, to fix the amount of the indemnities; 3, to designate which of the two Governments is to pay them.

The payments may be made in bonds issued for the purpose, at par, to draw interest at 3 per cent and sinking-fund charges of 3 per cent.

ARTICLE III.

Because of the fact that the areas exchanged by the two nations are not equal in extent, the United States of Brazil shall pay an indemnity of £2,000,000 (two million pounds sterling), which the Republic of Bolivia accepts with the design of applying it principally on the construction of railroads or other works tending to improve communications and develop commerce between the two countries.

The payment shall be made in two parts of £1,000,000 each, the first within the period of three months, counted from the exchange of ratifications of the present treaty, and the second on March 31, 1905.

ARTICLE IV.

A mixed commission named by the two Governments within the period of one year, counted from the exchange of ratifications, shall proceed to the demarkation of the boundary described in Art. I, commencing its labors within the six months following its nomination.

Any disagreement between the Brazilian and Bolivian commission which the two Governments may not succeed in settling shall be submitted to the arbitral decision of a member of the Royal Geographical Society of London, chosen by the president and members of the council of the same.

If the commissioners appointed by either of the high contracting parties to delineate the boundary fail to present themselves at the place and on the date agreed upon for the commencement of their labors, the commissioners of the others shall proceed of themselves to the marking, and the result of their operations shall be binding on both.

ARTICLE V.

The two high contracting parties shall conclude within the period of eight months a treaty of commerce and navigation based on the principle of the fullest liberty of land and river navigation for each of the nations; a right they shall both recognize in their dealings with each other perpetually, respecting fiscal and police regulations now established or that may in the future be established in their own territory. These regulations must be as favorable as possible to navigation and commerce, and they shall be made as uniform in the two countries as possible. It is, however, understood and declared that in this navigation is not included that from port to port of the same country, or internal river navigation, which shall continue in both countries subject to their respective laws.

ARTICLE VI.

In conformity with the stipulations of the preceding article and for the shipment in transit of articles of importation and exportation, Bolivia may maintain customs agents in the Brazilian custom-houses of Belém do Para, Manáos, and Corumbá, and in the other customs ports which Brazil may establish on the Madeira, and on the Mamoré, or at other points on the common boundary. Reciprocally, Brazil may maintain customs agents in the Bolivian custom-house at Villa Bella or in any other customs post Bolivia may establish on the common border.

ARTICLE VII.

The United States of Brazil obligate themselves to construct in Brazilian territory, themselves, or by means of private enterprise, a railroad from the port of Santo Antonio, on the river Madeira, to Guajará-Mirim, on the Mamore, with a branch, which, passing through Villa Murtinho or other nearby point (State of Matto-Grosso), shall extend to Villa Bella (Bolivia) at the confluence of the Beni and Mamoré. This railroad, which Brazil shall endeavor to conclude within the period of four years, both countries shall make use of, with the right to the same rates and privileges.

ARTICLE VIII.

The Republic of the United States of Brazil declares that it will canvass directly with the Republic of Peru the question of boundaries of the territory comprised between the source of the Javary and parallel 11°, attempting to arrive at an amicable settlement of the dispute, without responsibility for Bolivia in any case.

ARTICLE IX.

The disagreements which may arise between the two Governments with regard to the interpretation and execution of the present treaty shall be submitted to arbitration.

ARTICLE X.

This treaty, after approval by the legislative power of each of the two Republics, shall be ratified by the respective Governments and the ratifications exchanged in the city of Rio de Janeiro within the briefest period possible.

In faith whereof we, the plenipotentiaries above named, signed this

treaty in two copies, one in the Portuguese and one in the Spanish language, affixing thereto our seals.

Done in the city of Petropolis this seventeenth day of November, in the year one thousand nine hundred and three.

[L. S.]

RIO-BRANCO.

[L. S.]

J. F. DE ASSIS BRAZIL.

[L. S.]

FERNANDO E. GUACHALLA.

[L. S.]

CLAUDIO PINILLA.

Protocol of an agreement between Brazil and Bolivia for the postponement of the Labors of the Brazilian-Bolivian Arbitral Tribunal, created pursuant to Article 2 of the Treaty of November 17, 1903.

At a meeting of the Department of Foreign Relations of Brazil, at the City of Rio de Janeiro, on the 6th February, 1907, of the Minister of Foreign Relations of Bolivia, Dr. Claudio Pinilla, and the Minister of Foreign Affairs of Brazil, Dr. Jose Maria da Silva Paranhos do Rio Branco, being thereunto duly authorized, they entered into the following agreement:

Art. 1. The labors of the Arbitral Tribunal created by virtue of the provision of Article 2 of the treaty of the 17th November, 1903, which have been suspended since the 20th of May, 1906, shall recommence as soon as the Government of Bolivia is empowered to appoint its arbitrator, within the term of one year, the day of the resumption of work to be fixed by an exchange of notes.

Art. 2. The Apostolic Nuncio, as is agreed, shall be the President of the Tribunal.

Art. 3. The term of one year, beginning with the date of the re-opening, is hereby fixed for the termination of the labors of the Tribunal.

In faith and testimony of which they signed and sealed this protocol in duplicate, each one in the Spanish and Portuguese languages, and at the place and date above mentioned.

[L. S.]

CLAUDIO PINILLA.

[L. S.]

RIO BRANCO.

Instructions for the Mixed Brazilian-Bolivian Commission of Demarcation, signed at Rio de Janeiro on the 6th February, 1907.

At a meeting in the Department of Foreign Relations of Brazil, of the Minister of Foreign Relations of Bolivia, Dr. Claudio Pinilla, and the Minister of Foreign Relations of Brazil, Dr. Jose Maria da Silva Paranhos do Rio Branco, being thereunto duly authorized they formulated the following instructions by which shall be governed the Mixed Brazilian-Bolivian Commission, which is to make the demarcation of the frontier described in paragraphs 1, 2 and 3 of Article 1 of the treaty concluded at Petropolis on the 17th November, 1903, the said Ministers agreeing that, at the end of said labors, or previously, should it appear convenient, there shall be prepared and signed supplementary instructions for the demarcation of the lines treated of in paragraphs 4, 5, 6 and 7 of the said article.

Art. 1. Each of the two Commissions, Bolivian and Brazilian, appointed by virtue of the provisions of Article 4 of the treaty of the 17th November, 1903, shall be composed of a Chief Commissioner, of a Secretary, and of as many substitute commissioners, aids to the Chief Commissioner, and functionaries of the health service, transportation and commissary as may appear necessary to the Government.

An escort shall accompany each Commission.

Art. 2. The two Commissions shall meet at Corumba in the State of Matto Grosso on the day which the two Governments may designate by means of an exchange of notes, within six months following the date of the present instructions.

There, at the first conference the Chief Commissioners, their substitutes, assistants and secretaries shall proceed to the examination and comparison of the authenticated copies of their appointments and likewise to the examination of the authenticated copies of the present instructions. The regularity of said documents having been established, a minute of the fact shall be made, the Mixed Brazilian-Bolivian Commission of boundary demarcation remaining thus established.

Art. 3. Each one of the two Commissions will provide itself with the necessary floating material, and the two shall in common put their chronometers in order, verifying also the quality and the state of the instruments which they have at their disposal.

Art. 4. The Mixed Commission shall proceed to the demarcation of the boundary described in paragraphs 1, 2 and 3 of Article 1 of the treaty, included between Bahia Negra and the south entrance of the canal Pedro II or Rio Pando.

Art. 5. The demarcation shall be commenced at any of the extreme or intermediate points of the frontier described in the before-cited paragraphs 1, 2 and 3 of Article 1 of the treaty, according as may be most convenient to the work, in view of the local circumstances and the season in which the Commissioners have to operate.

Art. 6. These labor shall be executed at different points of the frontier, the Mixed Commission dividing itself for that purpose into sub-commissions or parties in which the Commission of each one of the two countries shall be represented. The chief commissioners shall draw up by common consent the instructions by which those sub-commissions shall be governed.

Art. 7. The boundary shall be marked by land marks of a permanent construction at the extreme points of the different lines and also at intermediate points where they may be considered necessary by either of the two Commissions.

Art. 8. A minute shall be drawn up of the location of each land mark describing the same, and indicating its geographic position.

Art. 9. Any disagreement between the Bolivian-Brazilian Commissions shall be submitted to the decision of their Governments in order that they may proceed in pursuance of the provision of the second paragraph of Article 4 of the treaty.

Art. 10. The Commission shall present to their respective Governments in duplicate a map of the region marked out, as likewise the necessary partial plans, authenticated by the Commissioners.

Art. 11. The provisions, instruments, and any articles whatsoever which the Commissions may have to transport from one territory to the other in the discharge of their duty, shall enter into it absolutely exempt from customs duties and from whatsoever internal tax.

Art. 12. As soon as the demarcation of the boundary described in paragraphs 1, 2 and 3 of Article 1 of the Treaty of Petropolis, shall be finished, the Commission shall continue their work on the rest of the frontier at the time and in the manner agreed upon by the Chief Commissioners, the rules established in the present convention being applicable to said work, as likewise the prescriptions of Article 4 of the treaty of the 17th November, 1903.

In testimony whereof the two Ministers above mentioned sign and seal these instructions in duplicate, each one in the Spanish and Portuguese languages, at the City of Rio de Janeiro at the place above stated, on the 6th day of February, 1907.

[L. S.]	CLAUDIO PINILLA.
[L. S.]	RIO BRANCO.

*Instructions for the Reconnaissance of the Rio Verde and its
Headwaters.*

At a meeting in the Department of Foreign Relations at Rio de Janeiro of the Minister of Foreign Relations of Bolivia, Dr. Claudio Pinilla, and the Minister of Foreign Relations of Brazil, Dr. Jose Maria da Silva Paranhos do Rio Branco, being thereunto duly authorized, they entered into the following agreement:

Art. 1. The Mixed Commission charged with the demarcation of the new boundary between Bolivia and Brazil in Matto Grosso is also charged with ascertaining whether the so-called land mark of the source of the Rio Verde, established in execution of the treaty of the 27th March, 1867, is in reality on said river, or whether, as some persons state, it exists at the source of an affluent of the Paragua.

Art. 2. To this end the Mixed Commission, or a sub-commission appointed by the Chief Commissioners, after placing land marks at the confluence of the Rio Verde, if the old ones should have been destroyed, shall ascend the same as far as the source of the streams that form it, making a plan of the river and its headwaters.

Art. 3. If the land marks should be alongside the river Paragua and not at the side of the river Rio Verde, the Commission will endeavor to ascertain by an examination of the ground whether, since 1887, there has been a change in the upper course of the second of these rivers and whether there are indications of any old river bed leading from the land marked to the Rio Verde.

Art. 4. Any disagreement respecting technical questions which may rise between the Commissions shall be resolved in accordance with the stipulations of Article 4 in the treaty of 17th November, 1903.

Art. 5. The two Governments, as soon as they shall have studied the reports and plans of the Mixed Commission, upon this reconnaissance shall decide whether the land mark ought to be preserved where it now is or to what point it ought to be removed.

Art. 6. The reconnaissance of the Rio Verde and its headwaters may be made before the work of boundary demarcation, provided for in the treaty of the 17th November, 1903, or at the same time when that work is performed.

In testimony whereof the two Ministers above mentioned sign and seal these instructions in duplicate, each one in the Spanish and Portuguese languages, in the City of Rio de Janeiro on the 6th day of February, 1907.

[L. s.]	CLAUDIO PINILLA.
[L. s.]	RIO BRANCO.

ENGLISH COPY OF SIMULTANEOUS AGREEMENTS MADE BETWEEN FRANCE AND SPAIN AND GREAT BRITAIN AND SPAIN, MAY 16, 1907, FOR THE MAINTENANCE OF THE TERRITORIAL STATUS QUO OF THESE THREE COUNTRIES IN THE MEDITERRANEAN AND IN THAT PART OF THE ATLANTIC OCEAN WHICH WASHES THE SHORES OF EUROPE AND AFRICA.

FOREIGN OFFICE, *May 16, 1907.*

YOUR EXCELLENCY: Animated by the desire to contribute in every possible way to the maintenance of peace, and convinced that the preservation of the territorial status quo and of the rights of Great Britain and Spain in the Mediterranean and in that part of the Atlantic Ocean which washes the shores of Europe and Africa must materially serve this end, and is, moreover, to the mutual advantage of the two Nations bound to each other by the closest ties of ancient friendship and of community of interests:

The Government of His Britannic Majesty desire to lay before that of His Catholic Majesty the following declaration of policy, in the confident hope that it will not only still further strengthen the good understanding so happily existing between them, but will also promote the cause of peace:

The general policy of the Government of His Britannic Majesty in the regions above defined is directed to the maintenance of the territorial status quo, and in pursuance of this policy they are firmly resolved to preserve intact the rights of the British Crown over its insular and maritime possessions in those regions.

Should circumstances arise which, in the opinion of the Government of His Britannic Majesty, would alter, or tend to alter, the existing territorial status quo in the said regions, they will communicate with the Government of His Catholic Majesty in order to afford them the opportunity to concert, if desired, by mutual agreement the course of action which the two Powers shall adopt in common.

I have the honour to be, with the highest consideration,

Your Excellency's most obedient humble servant,

(Signed) E. GREY.



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